

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

SUBCHAPTER 3

FISHERIES

CHARTER AND LIVERY BOATS

PART 445

CHARTER AND LIVERY BOAT SAFETY

324.44501 Definitions.

Sec. 44501. As used in this part:

(a) "Boat livery" means either of the following:

(i) A place of business or any location where a person rents or leases any vessel to the general public for noncommercial use on the waters of this state.

(ii) A place where a person offers cabins, cottages, motel rooms, hotel rooms, or other similar rental or leased units where a vessel is furnished for the use of the person renting or leasing the unit, but does not include a single privately owned cabin or cottage leased or rented to another where a vessel is furnished for the use of the person renting or leasing the unit.

(b) "Carrying passengers for hire" or "carry passengers for hire" means the transporting of any person on a vessel for consideration regardless of whether the consideration is directly or indirectly paid to the owner of the vessel, the owner's agent, the operator of the vessel, or any other person who holds any interest in the vessel.

(c) "Charter boat" means a vessel that is rented or leased or offered for rent or lease to carry passengers for hire if the owner or the owner's agent retains possession, command, and control of the vessel.

(d) "Class A vessel" means a vessel, except a sailboat, that carries for hire on navigable waters not more than 6 passengers.

(e) "Class B vessel" means a vessel, except a sailboat, that carries for hire on inland waters not more than 6 passengers.

(f) "Class C vessel" means a vessel, except a sailboat, that carries for hire on inland waters more than 6 passengers.

(g) "Class D vessel" means a vessel that is propelled primarily by a sail or sails and carries for hire on navigable waters not more than 6 passengers or carries passengers for hire on inland waters.

(h) "Class E vessel" means a vessel that carries not more than 6 passengers for hire and meets either of the following requirements:

(i) Is utilized primarily as a river-drift boat that is propelled primarily by hand.

(ii) Is a vessel that is 18 feet or less in length operated primarily on a river or tributary to the Great Lakes, Lake St. Clair, or their connecting waterways.

(i) "Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to, a vessel; or a marine safety article, accessory, or equipment intended for use by a person on board a vessel; but does not include radio equipment.

(j) "Inland waters" means all waters of this state, except navigable waters.

(k) "Livery boat" means a vessel which is offered for rent or lease by the boat livery or boat owner or his or her agent or is rented or leased from a boat livery or a boat owner or his or her agent and the boat livery or boat owner or his or her agent relinquishes complete physical control of the vessel to the renter or lessee, except the boat livery or owner retains legal title to the vessel.

(l) "Navigable waters" means those waters of the state over which this state and the United States coast guard exercise concurrent jurisdiction, including the Great Lakes and waters connected to the Great Lakes, to the upstream limit of navigation as determined by the United States department of the army corps of engineers.

(m) "Operate" means to start any propulsion engine or to physically control the motion, direction, or speed of a vessel.

(n) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest in a vessel that entitles that person to possession of the vessel.

(o) "Passenger" means a person carried on board a charter boat except either of the following:

(i) The owner of the vessel or the owner's agent.

(ii) The pilot and members of the crew of the vessel who have not contributed consideration for their

transportation either before, during, or after the voyage.

(p) "Peace officer" means every sheriff or sheriff's deputy; village or township marshal; officer of the police department of any city, village, or township; any officer of the Michigan state police; or any other police officer or law enforcement officer who is trained and certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, and includes the director and conservation officers employed by the department.

(q) "Personal watercraft" means a vessel that meets all of the following requirements:

(i) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.

(ii) Is designed without an open load carrying area that would retain water.

(iii) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.

(r) "Pilot's license" means a vessel operator's license issued by the United States coast guard or other federal agency, or a license issued by the department to an operator of a charter boat that is operated on inland waters.

(s) "Training or instructional purposes" means the teaching of any person in the handling and navigation of a vessel or the techniques of waterskiing.

(t) "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water irrespective of the method of operation or propulsion.

(u) "Waters of the state" means any waters within the territorial limits of this state and includes those waters of the Great Lakes which are under the jurisdiction of this state.

(v) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.44502 Conditions to renting or leasing charter boat or carrying passengers for hire; possession and display of valid pilot's license; obtaining vessel inspection certificate and pilot's license.

Sec. 44502. (1) A person shall not rent or lease, or offer to rent or lease, a charter boat, and a person shall not carry passengers for hire on a vessel on the waters of this state unless all of the following conditions are satisfied:

(a) The department has inspected the vessel, if required by this part, and has issued a certificate of inspection that is valid and current for the vessel.

(b) The operator of the vessel is a licensed pilot or is under the direct supervision of a licensed pilot who is on board the vessel.

(c) The person complies with the reporting requirements of section 44508.

(2) The licensed pilot of a charter boat shall possess a valid and current pilot's license issued in his or her name and shall immediately display that license upon demand of any peace officer.

(3) A person shall not operate a charter boat that carries 7 or more passengers on navigable waters without first obtaining a current vessel inspection certificate and a pilot's license from the United States coast guard or other federal agency.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44503 Conditions to advertising or arranging for carrying passenger on charter boat.

Sec. 44503. A person shall not advertise or arrange for the carrying of any passenger on a charter boat unless the charter boat has been issued a valid and current certificate of inspection provided for in section 44502 or operates under a reciprocal agreement pursuant to section 44513.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44504 Rules establishing minimum safety standards for charter boats; vessel ventilation and rail height.

Sec. 44504. (1) The department shall promulgate rules to establish minimum safety standards for charter boats. The safety standards shall be designed to ensure the safety and well-being of persons utilizing a charter boat and shall include all of the following:

(a) Methods for determining that a charter boat is of a structure suitable for carrying passengers and crew and is in a condition to enable it to be navigated safely.

(b) Necessary equipment and operating requirements.

(c) Minimum public liability insurance requirements.

(d) Methods for determination of maximum passenger capacity.

(e) Suitable tests to determine the sufficiency of the charter boat's structure, equipment, and stability.

(2) Except rules addressing vessel ventilation and rail height, rules pertaining to safety standards promulgated under the authority of former Act No. 228 of the Public Acts of 1965 shall remain in effect as provided in section 44526. Vessel ventilation and rail height shall be consistent with generally accepted and federally approved manufacturing processes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44505 Public liability insurance; notice of cancellation or expiration.

Sec. 44505. An insurance carrier that issues public liability insurance required by this part or a rule promulgated under this part shall notify the department immediately, in writing, whenever the insurance is canceled or expires and is not renewed.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44506 Rules for licensing pilots of charter boats.

Sec. 44506. The department shall promulgate rules for the licensing of pilots of charter boats on inland waters. Rules promulgated under this section shall be designed to ensure that pilots of charter boats have the training and skills necessary to ensure the safety and well-being of charter boat passengers, crew members, and members of the general public.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44507 Inspection of charter boats and equipment; certificate of inspection; number of crew; effect of noncompliance.

Sec. 44507. (1) Except for an inspection under section 44511(2) and except for a class E vessel that is a charter boat, the department shall inspect or arrange for the inspection of every charter boat and its equipment once every 24 months while the charter boat is at dockside and at least once every 72 months while the charter boat is in dry dock to determine if the charter boat and its equipment comply with the rules promulgated under section 44504. In addition, the department may at any time inspect or provide for the inspection of any charter boat if the department has reasonable cause either to believe that a provision of this part has been violated or that an inspection is necessary to ensure the safety of life and property. This subsection shall not apply to a class E vessel that is a charter boat; however, the department may inspect a class E vessel that is a charter boat if necessary to ensure the safety of life and property.

(2) If, after the inspection provided for in section 44502 and payment of the fees prescribed in section 44511, it is found that the charter boat and its equipment complies with this part and the rules promulgated under this part, the department shall issue to the owner of the charter boat a certificate of inspection to be furnished by the department. The certificate of inspection shall:

(a) Contain the maximum passenger, crew, and total person capacity of the charter boat.

(b) Be prominently displayed on the charter boat while the charter boat is operated upon waters of the state.

(c) Expire on May 31 of the second year following the year in which the charter boat was dockside inspected, except that the department may extend the expiration date if conditions exist that prevent the launching or the inspection of the charter boat before the expiration of the certificate of inspection.

(3) The department may determine the number of crew necessary for the safe operation of a charter boat.

(4) If it is determined by the department that a charter boat or its equipment does not comply with this part, or the rules promulgated under this part, or applicable federal law or regulations, a certificate of inspection shall not be issued and any current certificate of inspection may be revoked by the department pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44508 Availability of fish in waters utilized by charter boats; catch activity committee; composition; duties; reports; charter boat operator engaged in fishing; duties.

Sec. 44508. (1) The department may research the availability of fish in the waters of this state that are utilized by charter boats.

(2) The department shall form a catch activity committee that is composed of 2 individuals from the department and 2 representatives from the Michigan charter boat association. The catch activity committee shall do all of the following:

(a) Develop a monthly catch activity report form that pertains to the number, type, and location of fish taken from charter boats in this state.

(b) Plan and prioritize research concerning the information gathered pursuant to this section.

(3) The department shall distribute to each charter boat operator in this state the monthly catch activity report form developed under subsection (2), and each charter boat operator engaged in fishing shall complete and maintain that form in the manner prescribed in subsection (5).

(4) The department shall compile an annual report based upon information contained in those monthly catch activity report forms submitted to the department pursuant to subsection (5). The annual report shall not disclose the identity of a charter boat operator who provides information pursuant to subsection (5).

(5) A charter boat operator engaged in fishing shall do each of the following:

(a) Maintain on board each charter boat under his or her control a daily record of all catch activity of that charter boat for the current calendar month.

(b) Make available for inspection the daily catch activity records required to be maintained under this subsection upon the request of a peace officer.

(c) Complete a monthly catch activity report form provided by the department for each charter boat under his or her control.

(d) Sign, date, and submit to the department, on or before the tenth day of each month, a monthly catch activity report form completed by that charter boat operator for each charter boat under his or her control that was engaged in fishing during the previous month.

(e) The operator of a charter boat that is used for fishing on 2 or more bodies of water within a calendar month shall complete for that charter boat a separate monthly catch activity report form for each body of water fished, and shall sign, date, and submit each form to the department in the manner prescribed by this section.

(f) If a charter boat operator engaged in fishing does not submit to the department a completed monthly catch activity report form within 30 days after that form is required to be delivered to the department, the department shall notify that charter boat operator of his or her noncompliance with this section. If a charter boat operator engaged in fishing fails to return a completed monthly catch activity report form for a vessel within 60 days after that form is required to be delivered to the department, the department may revoke the state certificate of inspection issued for that vessel.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44509 Operation of charter boat in violation of terms of certificate of inspection.

Sec. 44509. (1) A person shall not operate a charter boat in violation of the terms of a certificate of inspection.

(2) Subsection (1) does not apply when the charter boat is being utilized by the owner of the charter boat exclusively for noncommercial purposes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44510 State pilot's license or renewal; examination; reexamination; revocation; issuance; duration.

Sec. 44510. (1) The department shall examine, or provide for the examination of, all applicants for a state pilot's license or renewal of an existing state pilot's license pursuant to the rules promulgated under section 44506 to ensure that an applicant has the skill, knowledge, and experience necessary to pilot a charter boat. If the department has reasonable cause to believe it necessary, the department may reexamine the holder of a state pilot's license at any time to determine continued compliance with the rules. If it is determined by the department that the holder of the state pilot's license no longer complies with the rules, the department may revoke the license pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

(2) If, after the applicant has successfully completed the examination and paid the fees prescribed in section 44511, the department determines that the applicant is qualified pursuant to the rules promulgated under section 44506, the department shall issue to the applicant a state pilot's license to be furnished by the department.

(3) A state pilot's license shall be issued for a 3-year period.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44511 Application for charter boat inspection or state pilot's examination; filing; fee; form; furnishing required information; false information; signature as certification of true and correct information; inspection fee schedules for dry dock and dockside inspection; inspection without fee or for reduced fee; examination fee for state pilot's license; forfeiture of application fee; disposition and use of inspection fees.

Sec. 44511. (1) The owner of a charter boat required to be inspected under this part and a person required to be licensed as a state pilot under this part shall file an application with the required fee for the charter boat inspection or the state pilot's examination with the department on a form prescribed and furnished by the department. Persons applying for a certificate of inspection or a state pilot's license shall furnish information reasonably required by the department. A person shall not file an application for charter boat inspection or state pilot's examination that contains false information. A person filing an application shall certify by the person's signature that the information furnished on the application is true and correct.

(2) The owner of a charter boat, or livery boat as provided for under section 44517, which has never been inspected shall pay to the department an inspection fee for dry dock and dockside inspection according to the following schedule:

(a) Class A and D vessels.....	\$250.00
(b) Class B vessels.....	\$120.00
(c) Class C vessels.....	\$350.00

(3) Beginning on April 1, 1987, for each required dry dock or dockside inspection of a charter boat, or livery boat as provided for under section 44517, other than an inspection under subsection (2), the owner shall pay the department a fee according to the following schedule:

(a) Class A and D vessels	
(i) Dockside inspection.....	\$100.00
(ii) Dry dock inspection.....	\$150.00
(b) Class B vessels	
(i) Dockside inspection.....	\$ 60.00
(ii) Dry dock inspection.....	\$ 60.00
(c) Class C vessels	
(i) Dockside inspection.....	\$150.00
(ii) Dry dock inspection.....	\$200.00

(4) When the department inspects any charter boat, or livery boat as provided for under section 44517, at an interval other than as required by this part, the inspection shall be conducted without an inspection fee for a dockside inspection and for a reduced fee to be determined by the department for a dry dock inspection. When a 24-month dockside inspection and a 72-month dry dock inspection are required in the same year, the owner shall only pay the fee for the dry dock inspection, as provided in subsection (3).

(5) For each examination of a person for a state pilot's license, the applicant shall pay a fee of \$30.00 to the department.

(6) The charter boat inspection fee or state pilot's license examination fee shall be forfeited to the department and credited to the marine safety fund if the owner of the charter boat or the applicant for a state pilot's license fails to keep an appointment, which has been mutually agreed upon between the owner or the applicant and the department, for an inspection or reinspection of the charter boat or a state pilot's license examination, without first notifying the inspecting officer or the department's marine safety section within the department's law enforcement division at least 24 hours prior to the scheduled appointment. Upon the forfeiture of an application fee, the owner of the charter boat or the applicant for a state pilot's license must submit a new application and the required fee before the department shall conduct any inspection of the charter boat or conduct any examination of the applicant for a state pilot's license.

(7) Except as otherwise provided in section 44517, the revenue received for inspection fees under this section shall be deposited in the state treasury to the credit of the waterways account and shall only be used to pay for inspections required by this part, and to maintain the education and enforcement program provided for in section 44513(2). The revenue division of the department of treasury shall annually provide to the department an accurate total of revenue collected and shall annually credit that amount to the waterways account.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.44512 Petition for evidentiary hearing; appeal.

Sec. 44512. (1) A person denied a state pilot's license or the owner of a charter boat for which a certificate of inspection has been denied or revoked may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A person who owns a charter boat may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, regarding the determination of the maximum passenger, crew, or total person capacity of the charter boat.

(3) A person who is aggrieved by the decision of the department under subsection (1) or (2) may appeal the action of the department in the manner provided in chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44513 Reciprocity; annual operating permit; amount and use of fees; education and enforcement program; printed materials.

Sec. 44513. (1) The department may enter into reciprocal agreements with other states and countries concerning the operation and inspection of charter boats from those states and countries that operate on the waters of this state. Reciprocity shall be granted only if a state or country can establish to the satisfaction of the department that their laws concerning charter boats meet or exceed the laws of this state. A charter boat shall not operate on the waters of this state under a reciprocal agreement pursuant to this section except as authorized under an annual operating permit issued by the department pursuant to part 13. The fee for an annual operating permit is \$100.00. The department shall utilize the fees for annual operating permits issued pursuant to this section to provide funds for the education and enforcement program provided for in subsection (2).

(2) The department shall develop an education and enforcement program designed to eliminate the operation of charter and livery boats that have not been inspected as required by this part and to prepare printed materials to provide the public with information regarding the safety features and requirements necessary for the lawful operation of charter and livery boats.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.44514 Conditions to operation of boat livery.

Sec. 44514. A person shall not operate a boat livery within this state unless the boats and equipment of the

boat livery are inspected and a permit to operate a boat livery is issued pursuant to this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44515 Rules requiring equipment and minimum safety standards for livery boats.

Sec. 44515. The department shall promulgate rules requiring equipment and minimum safety standards for livery boats that are rented or leased to the public by boat liveryes. The rules shall be for the purpose of ensuring the safety of those persons utilizing the facilities of boat liveryes and shall include all of the following:

- (a) Safe operation standards.
- (b) Maximum vessel load capacity.
- (c) Maximum horsepower of any motor to be used to propel the vessel.
- (d) Required equipment and equipment standards to ensure the safety of the general public.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44516 Application for inspection of livery boats and equipment.

Sec. 44516. The owner of a boat livery shall make an application to the sheriff of the county in which the livery is located for inspection of its livery boats and equipment. The application shall be made on a form provided by the department and shall include:

- (a) The boat livery name.
- (b) The mailing address of the boat livery.
- (c) The location of the boat livery.
- (d) The waters of the state on which the boat livery rents vessels.
- (e) The number and types of livery boats available for rent.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44517 Inspection fees for certain livery boats; disposition and use of fees; inspection; issuance, display, and expiration of permit.

Sec. 44517. (1) Any livery boat more than 20 feet in length, except for a class E vessel that is a livery boat, that is used or to be used on navigable waters without the owner being either on board or operating the vessel shall pay the inspection fees established pursuant to section 44511 for each livery boat to be inspected. Fees collected pursuant to this section shall be forwarded to the department. The department shall utilize the fees to develop and maintain the education and enforcement program provided for in section 44513(2).

(2) Upon receipt of the required fee and an application for an inspection and a permit, the department shall inspect, or provide for inspection of by the county sheriff or sheriff's deputy, all livery boats and their equipment of the boat livery. Upon completion of the inspection, the department, county sheriff, or the sheriff's deputy shall, pursuant to part 13, approve the issuance of a permit to operate a boat livery, provided the requirements of this part are met. A permit furnished by the department shall be prominently displayed on the site of the boat livery and shall expire on December 31 of each year in which a permit is issued.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.44518 Affixing inspection decal, plate, or tab to livery boat; information; amount, disposition, and use of fees.

Sec. 44518. (1) An inspecting officer, designated by the department, shall affix or cause to be affixed to each and every livery boat that meets the minimum safety standards established under rules promulgated under this part an inspection decal, plate, or tab furnished by the department which bears all of the following information:

- (a) The maximum number of persons permitted to be carried aboard the vessel.
- (b) The maximum horsepower of a motor permitted to be used on the vessel.
- (c) Other information as the department may reasonably require.

(2) Each boat livery owner shall pay a fee of \$2.00 to the inspecting officer for each decal, plate, or tab affixed to the livery boats. The inspecting officer shall forward all fees collected under this subsection to the treasurer of the county in which the fee is collected to be credited for the purpose of reimbursing the sheriff's department for expenses incurred pursuant to this part. If the inspecting officer is a conservation officer, fees collected under this section shall be forwarded to the department of treasury to be credited to the waterways account.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.44519 Removing, damaging, or mutilating inspection decal, plate, or tab.

Sec. 44519. A boat livery owner, the designated representative of the boat livery owner, or any other person, except an inspecting officer, shall not remove, damage, or mutilate a valid inspection decal, plate, or tab affixed to a livery boat except that when a livery boat is sold, damaged, destroyed, or removed from rental or leasing service, the boat livery owner or his or her designated representative shall remove the valid inspection decal, plate, or tab and return it to the inspecting officer.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44520 Written rental contracts or lease agreements required for certain livery boats; livery boat not to depart premises under certain conditions.

Sec. 44520. (1) The owner of a boat livery shall not rent or lease a livery boat more than 20 feet in length to be used on navigable water until a written rental contract or lease agreement has been made between the boat livery owner and the renter or lessee.

(2) A boat livery owner or his or her designated representative shall not permit a livery boat to depart the premises of the boat livery if:

(a) The equipment required pursuant to rules promulgated under this part is not aboard the livery boat.

(b) The livery boat contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(c) The livery boat is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44520a Nonmotorized livery boat; liability for injury or death to user; notice; definitions.

Sec. 44520a. (1) An owner of a nonmotorized livery boat is not liable for an injury to or the death of a user of the nonmotorized livery boat resulting from a risk inherent in the use or operation of a nonmotorized livery boat.

(2) An owner of a nonmotorized livery boat shall post in conspicuous locations a notice specifying that a user of the nonmotorized livery boat accepts the risk inherent in the use or operation of a nonmotorized livery boat.

(3) As used in this section:

(a) "Owner of a nonmotorized livery boat" means the person who owns the nonmotorized livery boat, the boat livery that rents, leases, or furnishes the nonmotorized livery boat for use, or an employee or agent of the owner or boat livery.

(b) "Risk inherent in the use or operation of a nonmotorized livery boat" means a danger or condition that is an integral part of the use or operation of a nonmotorized livery boat that is limited to 1 or more of the following:

(i) Wave or other water motion.

(ii) Weather conditions.

(iii) Contact or maneuvers necessary to avoid contact with another vessel or a manmade object in or near the water.

(iv) Contact or maneuvers necessary to avoid contact with rock, sand, vegetation, or other natural objects in or near the water.

(v) Malfunction of equipment, except for equipment owned by the owner of a nonmotorized livery boat.

(vi) Failure to use or wear a personal flotation device or to have lifesaving equipment available, except if the owner of a nonmotorized livery boat failed to provide the personal flotation device or lifesaving equipment when required by law or regulation to do so.

(vii) The actions of a vessel operator, except if the owner of a nonmotorized livery boat leased or rented the livery boat to an operator who the owner knew or in the exercise of reasonable care should have known was disqualified by law or regulation from operating the livery boat.

(viii) Having a number of persons in excess of the maximum number approved for the livery boat on board, except if the owner of a nonmotorized livery boat knowingly allowed the livery boat to leave the boat livery's premises with a number of persons in excess of the maximum weight or number approved for the livery boat on board or did not properly inform the user of the maximum weight or number of persons approved for the livery boat.

(c) "User of the nonmotorized livery boat" means a person who participates in the use or operation of the nonmotorized livery boat regardless of whether the person rented or leased the nonmotorized livery boat.

History: Add. 2006, Act 183, Imd. Eff. June 12, 2006.

Popular name: Act 451

Popular name: NREPA

324.44521 Presenting rental contract or lease agreement for examination by peace officer; prohibited conduct by person renting, leasing, or operating livery boat.

Sec. 44521. (1) Any person renting, leasing, or operating a livery boat on navigable waters that is more than 20 feet in length shall present for examination, upon demand of any peace officer, a copy of the rental contract or lease agreement.

(2) A person renting, leasing, or operating a livery boat on waters of the state shall not do any of the following:

(a) Permit the operation of the livery boat without the equipment required by rules promulgated under this part.

(b) Permit the operation of the livery boat if it contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(c) Permit the operation of the livery boat, if it is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44522 Lease, hire, or rental of personal watercraft; prohibition; certification required; rental agreement; contents; validity; liability; violation of subsection (1) or (2) as misdemeanor; impoundment.

Sec. 44522. (1) A boat livery shall not lease, hire, or rent a personal watercraft to any of the following:

(a) A person who is under 14 years of age.

(b) A person who does not display a boater safety certificate that is issued by the department as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.

(c) A person who is not required to obtain a boater safety certificate issued by the department under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, before operating a personal watercraft, unless the person obtains training in the safe use of a personal watercraft from the boat livery prior to the lease, hire, or rent of the personal watercraft. The department shall provide to boat liveries guidelines for the training required under this subdivision.

(2) A person who leases, hires, or rents a personal watercraft from a boat livery shall not permit an individual to operate the personal watercraft if the individual has not obtained a boating safety certificate or other certification as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.

(3) A boat livery shall provide a copy of the written rental agreement to each individual who leases, hires, or rents a personal watercraft from the boat livery and who has obtained the training required under

subsection (1). The written rental agreement shall include all of the following information:

- (a) The name of the person who leases, hires, or rents a personal watercraft from the boat livery.
- (b) The date or dates of the lease, hire, or rental.

(4) The written rental agreement described under subsection (3) is a valid boating safety certificate under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, only for the person named in the certificate on the date or dates of the lease, hire, or rental of the personal watercraft.

(5) A person who leases, hires, or rents a personal watercraft from a boat livery is liable for any injury occasioned by the negligent operation of the personal watercraft, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe the ordinary care in the operation that the rules of the common law require. The person is not liable unless the personal watercraft is being used with his or her expressed or implied consent. It shall be rebuttably presumed that the personal watercraft is being operated with the knowledge and consent of the person if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the person's family.

(6) A person who violates subsection (1) or (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both. A person who violates subsection (1) or (2) twice within a 3-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both. A person who violates subsection (1) or (2) 3 or more times within a 5-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$2,000.00, or both.

(7) In addition to any penalty imposed under subsection (6), upon a person's second or subsequent violation of subsection (1), the court may issue an order impounding the personal watercraft that was leased, hired, or rented in violation of subsection (1) for a period of not more than 1 year. The cost of storage for an impoundment ordered under this subsection shall be paid by the owner of the personal watercraft.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 262, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

324.44523 Petition for evidentiary hearing.

Sec. 44523. (1) A boat livery owner denied a permit to operate a boat livery by an inspecting officer designated by the department may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A boat livery owner may petition the department for an evidentiary hearing pursuant to the administrative procedures act, Act No. 306 of the Public Acts of 1969, regarding the determination by the inspecting officer of the maximum vessel load capacity of a livery boat, the maximum horsepower of any motor to be used to propel a livery boat, and any equipment requirements or standards.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44524 Violation as misdemeanor; penalties; seizure, condemnation, and confiscation of vessel; issuance of appearance ticket.

Sec. 44524. (1) A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(2) When a vessel is operated in violation of section 44502, 44509, or 44514, the vessel may be seized as evidence, and upon conviction of the owner, the vessel may be condemned and confiscated in the same manner as provided for under part 16.

(3) A peace officer may issue an appearance ticket to any person violating this part or a rule promulgated under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44525 Applicability and construction of part.

Sec. 44525. (1) Except for the reporting requirements of section 44508, this part does not apply to a vessel that is required to be inspected by federal law or regulations for the purposes of carrying passengers for hire

and that carries a valid and current certificate of inspection issued pursuant to federal law.

(2) This part does not require a person to secure a state pilot's license if that person has been issued a valid and current federal pilot's license from the United States coast guard or other federal agency.

(3) This part does not apply to a vessel 20 feet or less in length that is used primarily for training or instructional purposes and is not used at any time as a charter boat or a livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.44526 Effect of rules.

Sec. 44526. Except as otherwise provided in section 44504, rules promulgated pursuant to former Act No. 244 of the Public Acts of 1986 or an act repealed by that former public act remain in effect until replaced by rules promulgated pursuant to former Act No. 244 of the Public Acts of 1986 or this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

AQUATIC SPECIES

PART 451

FISHING FROM INLAND WATERS

324.45101 Inland lakes; fishing prohibited; exception.

Sec. 45101. A person shall not take any fish from any of the inland lakes of this state, within which fish are planted at the expense of the people of this state, if the public is excluded from taking fish from those waters. However, this part does not apply to any small inland lakes covering less than 250 acres in which fish are planted without the written consent of the persons who together own in fee simple the submerged acreage.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45102 Violation of part; penalty.

Sec. 45102. A person who violates this part is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not less than \$10.00 or more than \$100.00, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 453

FISHING WITH HOOK AND LINE

324.45301 Lawful fishing with hook and line.

Sec. 45301. In any of the navigable or meandered waters of this state where fish have been or are propagated, planted, or spread at the expense of the people of this state or the United States, the people have the right to catch fish with hook and line during the seasons and in the waters that are not otherwise prohibited by the laws of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45302 Fishing rights; action; defense.

Sec. 45302. An action shall not be maintained against a person entering upon the waters for the purpose of fishing, by the owner, lessee, or other person having the right of possession of adjoining lands, except for actual damage done. In such an action, the defendant under a proper notice may dispute at trial the plaintiff's right to either title or possession of the land claimed to have been trespassed upon.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 455

FROGS

324.45501 Frogs; limitation on taking or killing; spearing with aid of artificial light prohibited.

Sec. 45501. A person shall not take or kill any species of frogs in this state from November 16 in any year to the Friday immediately preceding the opening of the season on black bass of the following year. A person shall not spear frogs at any time with the aid of an artificial light.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45502 Frogs; lawful purchase, sale, or possession.

Sec. 45502. This part does not prevent the purchase, sale, or possession of frogs or any portion of the carcasses of frogs that have been legally taken or that have been shipped in from outside this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45503 Frogs; permits to take for scientific or experimental purposes; revocation.

Sec. 45503. The department may, pursuant to part 13, issue permits to take frogs at any season of the year if used for scientific or experimental purposes. These permits are revocable at the pleasure of the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.45504 Violation of part or false statement; penalty.

Sec. 45504. A person who violates this part or who makes a false statement in securing or attempting to secure a permit under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$50.00 and costs of prosecution, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 457

MUSSELS

324.45701 Definitions.

Sec. 45701. As used in this part:

(a) “Mussel” means the pearly freshwater mussel, clam, or naiad, and the shells of the pearly freshwater mussel, clam, or naiad.

(b) “Crowfoot bar” means a bar of any material bearing a series of hooks designed to catch or adapted for catching mussels by the insertion of the hooks between the shells of mussels.

(c) “Hand rod” means any mechanism of capture that is adapted for picking the mussels singly from the bottom of waters and is operated by the picker holding the hand rod in the hand.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45702 Mussels; registration and license requirements.

Sec. 45702. A person shall not take, catch, or kill mussels by means of any kind of apparatus or in any manner in any of the inland waters of this state without first registering with the department and obtaining a license issued for this purpose in accordance with this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45703 License; application; form; fee.

Sec. 45703. A person shall not take, catch, or kill mussels in any of the inland waters of this state without applying to the department on a form provided for that purpose by the department. The application shall be accompanied by a fee of \$3.00, if the applicant is a resident of this state, and a fee of \$50.00, if the applicant is a nonresident of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45704 License; issuance; duration; contents; possession; exhibition.

Sec. 45704. The department shall upon receipt of an application and the proper fee issue a license to take, catch, or kill mussels. All licenses shall begin July 1 and expire on September 30, following issuance. Licenses shall be consecutively numbered as issued, and a record of licenses and their numbers shall be kept by the department. A license shall state whether it is a resident or nonresident license, the address of the licensee, and the amount paid for the license. The license shall also state what waters have been closed to the capture of mussels by the department. Every person while taking, catching, or killing mussels shall have the license required by this section in his or her possession and shall exhibit the license when requested to do so by an authorized officer.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45705 Applications and licenses; record; receipts; disposition; "nonresident" defined.

Sec. 45705. The department shall keep a record of all applications and licenses issued and on the first day of each month shall pay to the state treasurer all money received for the sale of licenses issued under this part, and the money shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and shall be disbursed by the state treasurer for services of the department and for the department's expenses in enforcing this part and the game and fish laws of this state, for propagation, and for biological investigations and such other investigations as may be necessary. For the purposes of this part, a nonresident of this state is a person who has not resided within this state for a period of at least 6 consecutive months immediately prior to the time application is made for a license under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.45706 Mussels; number of boats permitted; crowfoot bars; hand rods; prohibited devices; mufflers.

Sec. 45706. Any person to whom a license has been issued under this part may operate not more than 1 boat, with or without a motor, in taking, catching, or killing mussels. The person may use 1 additional boat, with or without a motor, for the purpose of towing only when an apparatus for taking, catching, or killing mussels is not used or kept on the boat. A person engaged in taking, catching, or killing mussels on the waters shall not possess more than 4 crowfoot bars, shall have not more than 2 of the bars in the water at 1 time, and shall not use or possess a crowfoot bar of greater than 20 feet in length. A person may also use his or her hands or a device known as a hand rod in taking, catching, or removing mussels from the waters. However, a person shall not use to gather mussels a fork, dredge, tongs, or other device that when used digs deeply into the bed of the stream. All boats propelled by an internal combustion engine or motor and used in taking, catching, killing, or conveying mussels taken under this part shall be equipped at all times with a quiet muffler for the exhaust.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45707 Mussels; limitation on catch of certain undersized species.

Sec. 45707. A person shall not take, catch, kill, offer for sale, or possess, in a quantity of more than 1% by weight, mussels of the varieties known either as mucket or pocketbook species of a size less than 3 inches at

the greatest dimension. Undersized mussels shall be immediately culled and returned to the water from which they were taken without avoidable injury.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45708 Mussels; closed areas; orders of department; publication; effective date.

Sec. 45708. The department may, for the conservation of the mussel resources of the state, prescribe areas in any part of the state from which mussels shall not be taken for a period specified by the department. A person shall not take, catch, or kill mussels in closed waters. All orders of the department affecting mussels shall be published once a year in a newspaper of general circulation published within each county containing or having on its boundary waters affected by the order. All such orders shall take effect at the time established in the order, but not less than 21 days after the publication of the order. The department may extend the time within which the order takes effect.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45709 Mussels; report to department by license holder; prerequisite to new license.

Sec. 45709. On or before December 31 of the year in which any license was issued, the holder of the license shall make a written report to the department, on a form furnished by the department, under oath if requested to do so, stating the total weight of mussel shells taken, caught, or killed under the license, the names and locations of waters from which the mussels were taken, the weight of shells taken from each water, the amount of money received for shells sold, and any other information required by the department in determining the trend of the industry and available supply of mussels. The department may deny a new license to the holder until the report is made in accordance with this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45710 Taking mussels for culture or scientific investigation; permit required.

Sec. 45710. A person shall not take from any of the inland waters of this state any kind of mussels in any manner for the purpose of culture or scientific investigation without first obtaining a permit from the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45711 Violation of part; penalty; default.

Sec. 45711. A person who violates this part is guilty of a misdemeanor, punishable by a fine of not less than \$10.00 or more than \$100.00 and costs of prosecution, and in default of the payment of the fine, by imprisonment for not more than 90 days, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 459

PROPAGATION OF GAME FISH IN PRIVATE WATERS

324.45901 Definitions.

Sec. 45901. As used in this part:

(a) "Game fish" includes all species of fish in the families of salmonidae (trout and salmon), thymallidae (grayling), esocidae (northern pike and muskellunge), serranidae (white bass and striped bass), centrarchidae (bass, bluegill, and crappie), percidae (perch and walleye), acipenseridae (sturgeon), ictaluridae (catfish), and coregonidae (whitefish).

(b) "Genetically engineered" refers to a fish whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques.

(c) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is

isolated and manipulated in vitro and then inserted into an organism.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

324.45902 Game fish; license for propagation for sale.

Sec. 45902. (1) A person shall not propagate, rear, or have in possession for the purpose of offering for sale or selling any kind of game fish except as authorized by a license issued by the department pursuant to part 13. A license is nontransferable and expires on December 31 of the year for which issued. A separate license is required for each place of business where game fish are propagated, reared, or possessed for the purpose of sale or offering for sale.

(2) This part does not apply to the following:

(a) The sale, offering for sale, or possession of dead, fresh, or frozen brook trout, brown trout, or rainbow trout lawfully taken in and exported from another state or country or that have been procured from a licensed dealer within this state.

(b) The propagation, rearing, possession, or sale of game fish pursuant to a registration or permit issued pursuant to the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 200, Imd. Eff. May 17, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.45903 Game fish; license; application; contents; fee.

Sec. 45903. Any person owning or having control of private waters in this state who desires a license under this part shall make application for the license to the department, accompanied by a fee of \$5.00. The application shall state the name and address of the applicant and include the description of the premises where game fish are to be propagated, reared, possessed, or offered for sale, together with additional information as may be required. Upon receipt of the application and fee, the department, if satisfied that this part and the rules promulgated under this part have been complied with, shall issue a license to the applicant.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.45904 Game fish; sale; posting of license.

Sec. 45904. A person shall not propagate, rear, or possess, for the purpose of offering for sale or selling, any game fish, except at the location described in his or her license. The license shall be conspicuously posted at the person's place of business at all times.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45905 Rules; enforcement.

Sec. 45905. The department may promulgate and enforce rules as may be necessary to carry out the intent of this part and to protect the public interest.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.45906 Importation of game fish or viable eggs; prohibition or restriction; rules.

Sec. 45906. (1) A person shall not import into this state any live game fish, including viable eggs of any game fish, except as authorized by a license as provided for in this part issued by the department pursuant to part 13. A license under this subsection does not apply to a genetically engineered variant of a live game fish species unless the genetically engineered variant is specifically identified in the license.

(2) The department may promulgate rules under this part to prohibit or restrict the importation of any species of game fish or other fish if the importation of that species would endanger the public fishery resources of this state. A prohibition or restriction in rules promulgated under this subsection applies to a genetically engineered variant of a fish species identified in the prohibition or restriction unless the prohibition or restriction specifically provides otherwise. A prohibition or restriction in rules promulgated

under this subsection may be limited to a genetically engineered fish.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.45907 License fees; crediting game and fish protection account.

Sec. 45907. All money received from the sale of licenses provided for in this part shall be paid over to the state treasurer and shall be credited by the state treasurer to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.45908 Violation of part or rules as misdemeanor; penalty; suspension or revocation of license.

Sec. 45908. (1) Except as provided in subsection (2), a person who violates this part or the rules promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both. In addition to the penalty, any license issued under this part may be revoked.

(2) A person who knowingly violates section 45906 or a rule promulgated under section 45906 with respect to a genetically engineered fish or with respect to any fish species that is not naturalized in this state is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both. In addition, any license issued to the person under this part may be revoked, and the person is liable for damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(3) Any license issued under this part may be suspended or revoked by the department after a hearing, upon reasonable notice, when any of the operations under it fail to comply with the requirements of this part or the rules promulgated under this part. Whenever any license is suspended or revoked, the fish held under the license shall be disposed of only in a manner approved by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

PART 461

REGULATING FISHING IN NORTHPORT HARBOR

324.46101 Northport harbor; fishing for perch or smelt prohibited.

Sec. 46101. (1) A person shall not take any of the species of fish known as perch with gill nets, pound nets, trap nets, seines, setlines, or set hooks, or any other device except a hook and line, and no nets of any description for the taking of perch shall be set within 200 feet of any dock in the waters of Northport harbor (known as Northport bay), and within a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northport point at the water's edge; thence on a line southerly across Northport bay to Bellows (Gull) island; thence southerly on a line from Bellows (Gull) island to most northerly point of lot 3, section 25, town 31 north, range 11 west; thence due west to the east shore of lot 1, section 25, town 31 north, range 11 west; thence northerly following the bay shore to the place of beginning. A person shall not set any trap or pound net in that part of Northport harbor north of a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northport point at the water's edge and extending west to the town line between 31 north and 32 north in the village of Northport.

(2) A person shall not use a bait net in shallow waters along the shores of Northport harbor during the smelt spawning season to obtain smelt for other than a commercial purpose.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46102 Violation of part as misdemeanor; penalty.

Sec. 46102. A person who violates this part is guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or imprisonment for not more than 90 days, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 463**FISHING LAWS IN ST. JOSEPH RIVER****324.46301 St. Joseph river; applicability of general laws.**

Sec. 46301. All general laws relative to fishing on inland lakes are applicable to the waters in that part of the St. Joseph river formerly known as Municipal pond, and now known as Union Lake, Union City, Branch county, Michigan, extending from a point known as Arbogast bridge westward to and including the Riley dam.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 465**FISHING SHANTIES****324.46501 Definitions.**

Sec. 46501. As used in this part:

(a) "Fishing shanty" means a fishing house or any other structure or shelter placed on the ice on the waters over which this state has jurisdiction.

(b) "Local unit of government" means a county, city, township, village, or other governmental unit. Local unit of government does not include the state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46502 Fishing shanty; affixing name and address of owner.

Sec. 46502. (1) A person shall not set, place, erect, or cause to be set, placed, or erected, or use a fishing shanty at any time upon the ice in waters over which the state has jurisdiction, unless the name and address of the owner is affixed to each side of the outside of the fishing shanty in legible letters not less than 2 inches in height. The letters shall be readily visible and consist of materials that are not soluble in water.

(2) Placing the owner's name and address on a piece of wood, plastic, or other material and affixing that piece of material to the fishing shanty is not compliance with this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46503 Fishing shanties; Upper Peninsula; removal; conditions.

Sec. 46503. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of any waters of counties located within the Upper Peninsula, or the waters of the Great Lakes adjacent to the Upper Peninsula, shall remove the fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 31, of any year.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46504 Fishing shanties; certain counties; removal; conditions.

Sec. 46504. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of any water in Emmet, Cheboygan, Presque Isle, Charlevoix, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford,

Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Oceana, Newaygo, Mecosta, Isabella, Midland, or Bay counties, or those waters of the Great Lakes adjacent to the counties listed in this section, shall remove the fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 15, of any year.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46505 Fishing shanties; other counties; removal; conditions.

Sec. 46505. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of water in any of the counties of this state not listed in section 46504, and those waters of the Great Lakes adjacent to these counties, except as provided in section 46507, shall remove a fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 1, of any year.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46506 Fishing shanty; use and placement after certain dates.

Sec. 46506. After the dates listed in sections 46503, 46504, and 46505, a person may place and use a fishing shanty for the purposes of fishing if the fishing shanty is removed from the ice at the conclusion of each day's fishing activity.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46507 Fishing shanties; Lake St. Clair; removal; conditions; violation.

Sec. 46507. A person who sets, places, erects, or causes to be set, placed, or erected any fishing shanty upon the ice of lake St. Clair within the jurisdiction of this state shall remove the fishing shanty before ice conditions are unsafe for its removal or before sundown on the first Sunday after February 20 and on a daily basis following that date. Failure to remove a fishing shanty within the time specified in this section is a violation of this part, and the department or the local unit of government may then authorize the removal and storage or destruction of the fishing shanty.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46508 Ordinance, rule, or regulation of local unit of government; effect.

Sec. 46508. A local unit of government shall not pass an ordinance, rule, or regulation regulating the placement, use, marking, or removal of a fishing shanty on the ice of any waters over which this state has jurisdiction. An ordinance, rule, or regulation described in this section that is in effect on April 1, 1994 is void. However, if a person fails to remove a fishing shanty within the time specified in sections 46503, 46504, and 46505, a local unit of government may remove the fishing shanty from the ice or water and store or destroy the fishing shanty.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46509 Violation as misdemeanor; penalty; reimbursement to governmental entity.

Sec. 46509. (1) A person who violates this part is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not less than \$100.00 or more than \$500.00, or both, and costs of prosecution.

(2) Upon conviction for the violation of this part, the court shall order the defendant to reimburse the governmental entity that removes or provides for the removal of the fishing shanty from the water or ice an amount equal to 3 times the cost of removal.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 467

MODIFICATION OF COMMERCIAL FISHING LAWS

324.46701 Commercial fishing laws; suspension by department.

Sec. 46701. Notwithstanding any other act or part to the contrary, any statute or law of this state governing commercial fishing may be suspended, abridged, extended, or modified by the department when, in the opinion of the department, that action is necessary for the better protection, preservation, maintenance, and harvesting of the fish. The existing statutes and laws regulating commercial fishing shall remain in full force and effect unless suspended, abridged, extended, or modified by order of the department in the manner provided in this part or by subsequent acts of the legislature.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46702 Effective date of order; copy to licensees.

Sec. 46702. The effective date of any order issued by the department under this part shall be not less than 30 days from and after the date of its issuance. Within 10 days after the date of its issuance, a copy of the order shall be sent by first-class mail to all persons of record licensed under part 473.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46703 Violation of order; penalty; revocation of license.

Sec. 46703. A person who violates any order issued under this part is guilty of a misdemeanor. Each violation is a separate and distinct offense and, in addition to the penalties provided in this part, any license issued under authority of part 473 to any person convicted in any 1 license year of 3 violations of any order or orders promulgated under authority of this part, or of any act or part regulating commercial fishing, shall be automatically revoked and canceled for the remainder of the license year for which issued. The revocation shall prohibit for the balance of the license year the use of any boats, nets, or other gear covered by the license.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46704 Construction of part.

Sec. 46704. Nothing in this part confers upon the department the power to alter any provisions of the statutes relating to forfeitures, penalties, or license fees.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 469

TAKING RAINBOW TROUT IN SOO RAPIDS AND ST. MARYS RIVER

324.46901 Soo Rapids and certain connecting waters of St. Marys river; closed seasons on rainbow trout; excepted waters.

Sec. 46901. A person shall not take or attempt to take rainbow trout in the waters of the Soo Rapids, and the United States power canal and tailrace, the north and south canals, the locks and the approaches thereto, between the international railway bridge and a line drawn from the ferry dock immediately below the St. Marys falls in Sault Ste. Marie, Michigan, to the ferry dock in Sault Ste. Marie, Ontario, all being a part of the St. Marys river, Chippewa county, except from June 1 to November 30. This section does not apply to the Michigan northern power canal, which is a part of the connecting waters between Lake Superior and Lake Huron for the purpose of regulating fishing in that area.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.46902 Violation of part as misdemeanor; penalty.

Sec. 46902. A person who violates this part is guilty of a misdemeanor, punishable by imprisonment for not less than 10 days or more than 90 days, or a fine of not less than \$10.00 or more than \$100.00, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 471 FISHERIES MAINTENANCE

324.47101 Department; fish-breeding duties; property tax exempt; superintendent of fisheries; duties.

Sec. 47101. The department shall select suitable locations within this state at which to establish and maintain fish-breeding establishments for the propagation and cultivation of whitefish, and such other kinds of food fish as the department may direct, for the purpose of stocking such fish and replenishing the supply of the fish in the inland and bordering waters of this state. All property owned or leased by the department shall be exempt from taxation so long as held and used for state purposes under this part. The department shall employ a competent person as superintendent of fisheries, whose duty it shall be to devote his or her entire time to gathering ova, hatching and planting, or distributing fish, and superintending generally the practical operations of the work.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47102 Accounts; records; biennial report.

Sec. 47102. The department shall keep proper books of accounts and records of its transactions, and also of all operations and experiments in the discharge of the duties under this part, and shall report biennially to the governor upon its operations and the practical results and success of the operations.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47103 Duties of department.

Sec. 47103. The department may take or cause to be taken any fish in any manner or at any time, for the purposes connected with the fish culture or with scientific observation. The department shall further discharge any duties required of it by law relating to the fishing interests or to enforce laws relating to the protection of fish and fisheries in this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47104 Appropriation; carrying forward unexpended balance.

Sec. 47104. The unexpended balance of any appropriation to implement this part at the end of the year for which the appropriation is made shall be carried forward to the credit of the department, if the department certifies to the state treasurer that the money is needed for the purchase of additional grounds, for making permanent improvements upon any of its property, or for equipment or labor.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2002, Act 356, Imd. Eff. May 23, 2002.

Popular name: Act 451

Popular name: NREPA

324.47105 Joint action with other states.

Sec. 47105. In case appropriations by other states contiguous to the waters of this state are made, and a disposition for joint action with this state is expressed, the department, with the approval of the governor, may arrange for and carry into effect joint action for replenishing the supply of food fish in the contiguous waters.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 473
COMMERCIAL FISHING

324.47301 Fish in Great Lakes; property of state.

Sec. 47301. All fish of whatever kind found in the waters of Lakes Superior, Michigan, Huron, and Erie, commonly known as the Great Lakes, the bays of the Great Lakes, and the connecting waters between those lakes within the jurisdiction of this state are the property of the state, and taking the fish from those waters is a privilege. All fish in waters described in this section shall be taken, transported, sold, and possessed only in accordance with this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47301a Obstruction or interference in lawful taking of fish; prohibited conduct; injunction; violation as misdemeanor; penalty; applicability of section to peace officer; definitions.

Sec. 47301a. (1) A person shall not obstruct or interfere in the lawful taking of fish by a person licensed under this part.

(2) A person violates this section when the person intentionally or knowingly does any of the following:

(a) Operates a vessel or a device designed to be used on the water which does not meet the definition of vessel in a manner likely to significantly alter the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(b) Wades or swims in a manner or at a location likely to cause a significant alteration in the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(c) Tosses, drops, or throws any stone, rock, or other inert material in order to hinder or prevent the lawful taking of an aquatic species.

(d) Drives, herds, or disturbs any aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(e) Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking fish.

(f) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect animal behavior in order to hinder or prevent the lawful taking of fish.

(g) Erects barriers to deny ingress or egress to waters where the lawful taking of fish may occur. This subdivision does not apply to a person who erects barriers to prevent trespassing on his or her property.

(h) Interjects himself or herself into the area where nets or fishing lines are cast by a person lawfully taking fish.

(i) Affects the condition or placement of personal or public property intended for use in the lawful taking of fish in order to impair the usefulness of the property or prevent the use of the property.

(j) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.

(k) Engages in any other act or behavior for the purpose of violating this section.

(3) Upon petition of an aggrieved person or a person who reasonably may be aggrieved by a violation of this section, a court of competent jurisdiction, upon a showing that a person was engaged in and threatens to continue to engage in illegal conduct under this section, may enjoin that conduct.

(4) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$500.00 or more than \$5,000.00, or both, and the costs of prosecution. A person who violates this section a second or subsequent time is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not less than \$1,000.00 or more than \$10,000.00, or both, and the costs of prosecution. In addition to the penalties provided in this subsection, any permit or license issued by the department authorizing the person to take aquatic species shall be revoked. A prosecution under this section does not preclude prosecution or other action under any other criminal or civil statute.

(5) This section does not apply to a peace officer while the peace officer performs his or her lawful duties.

(6) As used in this section:

(a) "Aquatic species" means fish, reptiles, mollusks, crustacea, minnows, wigglers, and amphibians of the class amphibia.

(b) "Take" and "taking" mean to fish for by any lawful method, catch, kill, capture, trap, or shoot any

species of fish, reptiles, amphibians, mollusks, wigglers, or crustacea regulated by this part, or to attempt to engage in any such activity.

(c) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

History: Add. 1996, Act 317, Eff. July 1, 1996.

Popular name: Act 451

Popular name: NREPA

324.47302 Fishing license; limited number to be issued; qualifications; provisions; expiration date; suspension or revocation; renewal; transfer.

Sec. 47302. (1) Notwithstanding the provisions of this or any other part or act, the department, when in the department's opinion it is necessary for the better protection, preservation, management, harvesting, and utilization of the fisheries in the waters described in section 47301 may limit the number of fishing licenses to be issued under this part and fix and determine the qualifications of persons to whom licenses are issued. In determining the number of licenses that the department issues during any license year, the department shall consider the number of persons holding licenses, the number of licensees needed to harvest the fish known or believed to be harvestable, the capacity of the boats and equipment owned and used by licensees to harvest those fish, and any other facts that may bear upon the allowing of a limited number of licensed persons to engage in commercial fishing in an economical and profitable manner. In determining the qualifications of the licensees, the department shall consider the kind, nature, and condition of the boats and fishing equipment and gear to be used by the applicant, the years of experience the applicant has had in commercial fishing, and the quantity and kinds of fish that the applicant has caught during the previous 5 years, and other facts that may assist the department in determining that the applicant is capable of engaging in commercial fishing in a proper and profitable manner and will comply with the laws applicable to commercial fishing.

(2) In addition to the requirements of this part and rules promulgated under this part, the license issued by the department may contain provisions that do 1 or more of the following:

(a) Establish the amount of fish to be taken by species and kind.

(b) Designate the areas in which the licensee is permitted to fish.

(c) Specify the season when and the depths where the licensee may conduct commercial fishing operations.

(d) Specify the methods and gear that the licensee shall use.

(e) Specify other conditions, terms, and restrictions that are considered necessary in implementing this part, including, but not limited to, the right to inspect the licensee's fishing operations in the waters, on board, or ashore.

(3) All licenses issued by the department pursuant to this part expire on December 31 of the year in which issued.

(4) The department may suspend or revoke any license issued under this part if the licensee fails to fulfill or violates any of the conditions, terms, or restrictions of the license. The department shall afford the licensee a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Any person whose license has been suspended or revoked is not eligible to apply for or receive a license for the ensuing 2 calendar years following the suspension or revocation.

(5) Any licensee licensed on November 15, 1968 has the right to have his or her license renewed from year to year by the department if the licensee continues to meet the qualifications set forth in this section and the qualifications specified in any rules promulgated under this section regardless of the determination of the number of licenses to be issued under this part. Licenses described in this section are not transferable without the permission of the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47303 Fish and game protection account; receipts; use.

Sec. 47303. The department shall provide financial remuneration to the state for fish taken for commercial purposes by collection from the licensee of not more than 5% of the price received by the licensee. Money received shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 to be used in the development and management of the fisheries resource.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.47305 Rules.

Sec. 47305. For the purpose of carrying out this section and sections 47302 and 47303, the department may promulgate rules as may be necessary.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47306 Commercial fishing law; setting of nets or hook lines prohibited; connecting waters.

Sec. 47306. A person shall not place or set any kind of a net or set hook lines or take or attempt to take any kind of fish with a net or set hook lines, except minnow seines as provided in section 47309, in any of the connecting waters between Lake Superior and Lake Huron and the connecting waters between Lake Huron and Lake Erie. For the purposes of this part, the connecting waters between Lake Superior and Lake Huron are all of that part of the straits of St. Mary in this state, extending from a line drawn from Birch point range front light to the most westerly point of Round island, thence following the shore of Round island to the most northerly point thereof, thence from the most northerly point of said Round island to Point Aux Pins light, Ontario, to a line drawn east and west from the most southerly point of Little Lime island; and the connecting waters of Lake Huron and Lake Erie are all of the St. Clair river and all of lake St. Clair and all of the Detroit river extending from fort Gratiot light in Lake Huron to a point in the lower Detroit river where the center line of Oak street, city of Wyandotte, Wayne county, Michigan, extended due east, would intersect the international boundary line. The boundary line between Lake Michigan and Lake Huron is a line extending due north from old Mackinac point lighthouse across the straits of Mackinac.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47307 Setting of nets or hook lines prohibited; channel at mouth of stream or outlet of inland lake; fishing from docks; spearing through ice.

Sec. 47307. A person shall not set any net, set hook lines, or other device for the purpose of taking or catching fish within 160 rods on either side of the thread of the stream at the mouth of any river or outlet of an inland lake emptying into Lakes Superior, Michigan, Huron, or Erie, commonly known as the Great Lakes, or the bays of the Great Lakes, navigable for vessels drawing 10 feet or more, leaving an open channel of 1 mile in width for the free passage of fish, extending at right angles from the shoreline as near as may be, 2 miles from shore. However, within the next 1/2 mile on either side of any such rivers or outlets of inland lakes, nets, set hook lines, or other devices shall not be used for the purpose of taking fish that will extend a greater distance than 1 mile from shore. The purpose of the limitations in this section is to leave an open channel of 1 mile in width 1 mile out, and 2 miles in width for the second mile out, for the free passage of fish. No net or other device for taking fish shall be set or used within 40 rods on either side of the thread of the stream at the mouth of any other river or the outlet of any other inland lake leaving an open channel of 80 rods in width for the free passage of fish, extending at right angles with the shoreline as near as may be 2 miles out from shore. For the purpose of this section, the shore commences at the average low-water mark. If the location of the open channel or the average low-water mark is in dispute, this location shall be determined by the department. Except as provided in sections 47311 and 47313, a person may at all times catch any kind of fish in all of the waters named in this part, and from the docks, harbors of refuge, or breakwaters, with a hook and line except largemouth black bass, smallmouth black bass, bluegills, sunfish, brook or speckled trout, rainbow and steelhead trout, brown and Loch Leven trout, northern pike, pike-perch, perch, or muskellunge, which shall only be taken or possessed in the manner and at the time specified by the laws of this state protecting those fish. A person may also spear carp, suckers, mullet, redhorse, sheepshead, lake trout, herring, smelt, perch, pike-perch, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee white fish, catfish, dogfish, and garpike through the ice in the connecting waters as defined in this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47308 Set hook lines, spears, and gill nets; use permitted; marketing prohibited; unused bait.

Sec. 47308. Except as otherwise provided by law, a person may use in the waters of Lakes Michigan, Superior, Huron, and Erie, and the bays of those lakes, within the jurisdiction of this state, set hook lines or spears for the purpose of taking fish; and for the purpose of securing bait for use in baiting said hook lines, a person may use gill nets as provided in section 47309. However, a person shall not market or possess for the purpose of marketing any fish taken in bait nets. All unused bait, fresh or old, shall be taken ashore.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47309 Nets; use; meshes.

Sec. 47309. A person shall not possess on any boat licensed under this part or use in the waters of Lakes Michigan, Superior, Huron, and Erie, and the bays of those lakes, within the jurisdiction of this state, any pound or trap net, gill net, seine, or any fixed, set, or movable net of any kind or description, the meshes of which are different than the following:

(a) Gill nets with meshes of not less than 4-1/2 inches shall be used for the taking of whitefish, lake trout, and yellow pickerel. In Lake Erie, the nets shall have meshes not less than 4-3/4 inches. The nets shall be set not nearer than 20 rods from the shore of the mainland fronting Lake Superior and its bays. The nets shall be set not nearer than 20 rods from the shore of the mainland fronting Lake Michigan southerly from Seven Mile point, Emmet county, during the months of March, April, and May. There shall be no nets, except gill nets, of any kind with mesh larger than 2-3/4 inches set in the waters of Lake Superior within a radius of 50 miles of the village of Houghton, Michigan, during the period between October 10 and November 4, except by permit from the department for the taking of spawn from trout for the fish hatcheries.

(b) Gill nets with meshes of not less than 2-1/2 inches or more than 2-3/4 inches may be set in water of any depth, and gill nets with meshes of not less than 2-1/2 inches or more than 3 inches may be set in waters not exceeding 100 feet in depth, for the purpose of taking herring, chubs, perch, and pilot fish, commonly called menominees, wherever and whenever they will not take to exceed 10% by weight of other fish, such percentage to be determined by the department, by inspection of the fish taken in the nets. All uninjured fish, except herring, chubs, perch, and pilot fish, shall be returned to the waters from which they were taken with as little injury as possible, by the persons lifting the nets; all sound, undersized, and dead fish found in the nets are the property of the state, and shall not be sold or disposed of, but shall be dressed and brought in and delivered immediately to the department at the fishing port of the person taking the fish. The sound, undersized, and dead fish shall be then disposed of by the department. If more than 10% of fish other than herring, chubs, perch, and pilot fish are taken, then all of the other fish shall be disposed of by the department. An angler may have in his or her possession, not to exceed in quantity the percentage allowed of lake trout, whitefish, yellow pickerel, perch, or suckers, of a weight or length less than established by this part, which are caught in 2-1/2 inch to 2-3/4 inch or 2-1/2 inch to 3 inch mesh gill nets, as provided for in this subsection, but the same may be shipped and disposed of only under the direction of the department. All undersized fish taken over under this section shall be disposed of by the department to state, county, or charitable institutions. Parties handling the fish shall be paid not more than 3 cents per pound for boxing, packing, and icing the fish. The department shall remove or cause to be removed any of the nets if, from the inspection provided in this section, the department determines that the nets are taking more fish of species other than herring, chubs, perch, and pilot fish than allowed by this section.

(c) Gill nets with meshes of not less than 2-1/4 inches or more than 2-3/4 inches may be used to take blue back herring in the waters of Lake Superior and Whitefish bay, and those waters of the straits of Mackinac bounded on the Lake Huron end by a line drawn from the southernmost tip of St. Martin point, Mackinac county, to the westernmost tip of Lime Kiln point on Bois Blanc island, thence in a southerly direction to the northernmost tip of Point Au Sable in T 38 N, R 2 W, Cheboygan county, and bounded on the Lake Michigan end by a line drawn from the southernmost tip of Seul Croix point in Schoolcraft county in an easterly direction to the Lansing shoal lighthouse, thence to the White shoal lighthouse, thence in a southeasterly direction to the westernmost tip of Waugoshance point in Emmet county, and Green bay of Lake Michigan, as defined in section 47311, wherever they will not interfere with or take whitefish or lake trout or any other fish protected under the laws of this state.

(d) The department may issue permits to allow the use of gill nets having meshes not less than 1-1/2 inches or more than 1-3/4 inches for taking smelt and alewife for commercial purposes under rules and regulations as

the department prescribes.

(e) Gill nets with meshes of not less than 1-1/4 inches or more than 1-3/4 inches may be used to secure bait for use in baiting hook lines, if the nets will not take undersized fish.

(f) Pound nets having meshes not less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel, and having meshes not less than 5 inches in the lead, shall be used for taking whitefish and lake trout. In the pound nets, meshes not more than 3-1/2 inches may be used in 1 side of the pot or in the back, being that part of the pot opposite the tunnel entrance. In fishing with the pound nets, or any other pound nets permitted by this part, the crib or pot and hearts and lead shall extend to or above the surface of the water; the crib or pot and hearts shall be entirely open at the top, the sides or walls of the pot or crib and of the hearts shall be held vertically as near as possible and shall have 5 or more stakes driven into the earth at the bottom of the lake to hold the net in place. A pound net permitted under this part or any part of the webbing of the net shall not be set in water of a depth greater than 80 feet. Pound nets fished through the ice may be held in place by fastening them to the ice without the use of stakes.

(g) Pound nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib and in the tunnel inside the pot or crib, and having meshes not less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead, may be used for taking all legal fish except whitefish and lake trout. Saginaw bay shall be considered rough fish grounds, and other similar bays may be designated by the department as rough fish grounds if the catch of whitefish and lake trout taken in pound nets and trap nets during the last 2 preceding years averaged less than 12% of the total catch, on which grounds all legal fish caught in pound nets and trap nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib may be taken and all lake trout and whitefish taken in such nets set in all other waters shall be returned uninjured to the waters. The department may issue permits to allow the use of pound nets having meshes less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead for the taking of smelt and alewife for commercial purposes, under rules and regulations as the department may prescribe, which may include the waters in which the nets may be fished and the period of time during which they may be used.

(h) Trap nets having meshes not less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel and having meshes not less than 5 inches in the lead shall be used for taking whitefish and lake trout. In such trap nets, meshes not more than 3-1/2 inches may be used in the tunnel inside the pot, in either the front, back, or 1 side of the pot for a distance not exceeding 5 feet from the bottom of the net and in that portion of the bottom of the net connected thereto for a distance not exceeding 5 feet, and in the connecting ends for a depth and width not exceeding 5 feet, for the purpose of shoaling fish. These trap nets shall not be used in any of the waters under the jurisdiction of this state except in Lakes Huron and Erie and then only in such a manner that no trap net or any part of the webbing of the net is set in water of a depth greater than 80 feet. Trap nets having meshes as described in this subsection and with no part of the lifting pot or crib over 15 feet in depth may be used to take whitefish and lake trout in Lakes Superior and Michigan in water of a depth not greater than 80 feet.

(i) Trap nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib and in the tunnel inside the pot or crib and having meshes not less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead may be used for taking all legal fish except whitefish and lake trout. The depth of no part of the lifting pot or crib shall be greater than 15 feet. No such trap nets and no part of the webbing of the net shall be set in water of a depth greater than 50 feet in Lakes Michigan and Superior, or in water of a depth greater than 80 feet in Lakes Huron and Erie. The department may issue permits to allow the use of trap nets having meshes less than 3-1/2 inches in that part of the tunnel outside the pot or crib and in the heart and lead for the taking of smelt and alewife for commercial purposes, under rules and regulations as the department may prescribe, which may include the waters in which such nets may be fished and the period of time during which they may be used. Trap nets having a lifting pot or crib not exceeding 4 feet in depth may have webbing less than 3-1/2 inches in the 2 sides of inner heart.

(j) Any pound net or trap net with meshes in the lifting pot or crib between 3-1/2 and 4-1/2 inches, or any lifting pot or crib of such nets with meshes between 3-1/2 and 4-1/2 inches, is illegal and shall be seized and confiscated when found in use. Hoop nets, fyke nets, drop nets, and gobbler nets are considered under this part to be trap nets.

(k) Seines having wings with meshes of not less than 4 inches, and the pocket or bag, the bag of which shall be not more than 1/4 the length of the seine, having meshes of not less than 2-1/4 inches, may be used to take carp, yellow pickerel, perch, herring, and other rough fish if they do not interfere with or take whitefish or lake trout. All seines in use or set along the shores of the waters listed in section 47301, when unattended, shall have a metal tag securely attached to the seine bearing the commercial fishing license number of the owner or user of the seine. Minnow seines not to exceed 80 feet in length and 8 feet in width may be used in the Great Lakes and connecting waters.

(l) The measurement of the mesh of all nets and seines as prescribed in this section shall be by extension measure. The size of the mesh of all nets or netting used in fishing as provided by this part shall be determined by extension measure, and the measurement shall be made of meshes irrespective of where the net or netting is found, whether in the water, on boat, on reel, on dock, or in any other place on land. Extension measure means the distance between the extreme angles of any single mesh, and the measurements shall be taken between and inside the knots. All measurements of the mesh in gill nets or gill netting shall be made with a flexible steel gauge constructed and used as prescribed in this section. All measurements of the mesh of gill nets or gill netting shall be made by inserting in the mesh parallel with the selvage a gauge made of spring steel free from rust, of a length equal to the number of inches prescribed in this section for the mesh measured. The ends of the gauge shall be free of sharp edges or burrs. The gauge shall not be graduated, and any necessary markings shall be placed near the ends of the gauge. The length of the gauge measured parallel with the long edge shall not at any point exceed or be less than the prescribed length by more than $\frac{2}{1000}$ of an inch. Its width at any point shall not exceed $\frac{9}{16}$ of an inch or be less than $\frac{7}{16}$ of an inch. Its thickness shall be such that when it is set vertically on a solid anvil with its upper end loaded with a dead weight between 7-1/2 and 8-1/2 ounces, the gauge shall deflect at its middle $\frac{1}{10}$ of its length. The meshes to be gauged shall be at least 3 meshes removed from the selvage or side lines and shall not be stretched or manipulated in any way prior to or after the insertion of the gauge, and the same mesh shall not be gauged more than once. In gauging a mesh, the flexible gauge shall be held only by the ends and bent between thumb and forefinger, the bent rule shall then be inserted in the mesh parallel with the selvage and with the collapsed mesh, and finger pressure shall be released immediately, not gradually. If the gauge does not straighten out completely under its own tension within 2 seconds after its release in the mesh without slipping a knot or breaking the twine, the mesh is unlawful, and if the majority of 10 or more meshes selected at random by the enforcement officer from any part or parts of the gill net or from the entire gill net or from any gill netting being gauged are found to be unlawful, the gill net or gill netting if found in use or in or upon any licensed commercial fishing boat shall be seized and confiscated. If found in possession but not in use, any such gill net or gill netting shall be sealed by the enforcement officer with a suitable seal provided by the department and, when once sealed and for so long as the seal remains intact on the net or netting, may be possessed by the owner until disposed of or destroyed by the owner as provided in this section. The gill net or gill netting shall not be disposed of or destroyed except under direction of a conservation officer and, until that time, shall be available for inspection by the department or any conservation officer. Any person who, without authority from the department, breaks or destroys a seal attached to a gill net or gill netting, or any person who refuses or neglects to produce for inspection any sealed gill net or gill netting, or who disposes of or destroys a sealed gill net or gill netting except under the direction of a conservation officer, is guilty of a misdemeanor and upon conviction is subject to the penalty provided for in section 47327. A person shall not use any gill net of a greater measurement than 11 feet in depth in any of the waters of the Great Lakes and the bays of the Great Lakes. In Lake Erie, a gill net shall not be over 36 meshes deep. A trawl of any kind shall not be licensed.

(m) Gill nets having meshes not less than 8 inches may be used for taking carp in Wildfowl bay in Huron county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47310 Taking, catching, or attempting to take or catch fish with gill net, pound net, or trap net in certain waters; transfer of fishing licenses; license or permit for chubs; applicability of section.

Sec. 47310. (1) Except as provided in subsections (2) and (3), within the jurisdiction of this state the holder of a license or permit issued under this part shall not take, catch, or attempt to take or catch any fish with a gill net, pound net, or trap net in Lake Erie and the connecting waters of Lake Erie and Lake Huron, or in the portions of Lake Michigan and Lake Huron located south of a line extending due east and west of the forty-fifth parallel of latitude, or in the rivers and streams which connect with any of the bodies of water described in this subsection from April 15 to September 15.

(2) Subsection (1) does not apply to a license or permit holder who prior to September 15, 1984 holds a license or permit issued under this part to take, catch, or attempt to take or catch any fish with a gill net, pound net, or trap net in those waters described in subsection (1). Fishing licenses described in this subsection are not transferable without the permission of the department.

(3) The department may issue a license or permit that authorizes the holder of the license or permit to take, catch, or attempt to take or catch coregonus, commonly known as chubs, with a gill net, pound net, or trap net

as follows:

(a) Except as provided in subdivision (b), in those waters described in subsection (1) that exceed 240 feet in depth.

(b) In those waters of Lake Michigan located south of a line extending due west of the south pier of Grand Haven harbor that exceed 180 feet in depth.

(4) This section does not apply after December 31, 1986.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47311 Closed seasons; setting of nets or hooks; disposition of fish taken during closed season; revocation of license; chilling fish.

Sec. 47311. (1) A person shall not take from any of the waters listed in section 47301 any of the following:

(a) Lake trout, in Lake Huron and Lake Michigan from October 1 to December 10; in Lake Superior from October 5 to November 4.

(b) Whitefish, in Lake Huron and Lake Michigan from October 1 to December 10; in Lake Superior from November 1 to November 26.

(c) Pike-perch (yellow pickerel), northern pike, from April 1 to May 20. In Saginaw bay, as defined in section 47339, a person shall not take pike-perch from March 5 to April 10. A person may spear pike-perch through the ice during the closed season in Lake Huron and the connecting waters of the Great Lakes for noncommercial use only.

(d) Perch, from April 15 to May 20. In the waters of Lake Michigan only, a person may take perch from April 25 to June 1. In Saginaw bay, perch of legal size may be taken at any time. A person may take perch with hook and line at any time.

(e) White bass, in Lake Michigan at any time of the year. A person may take white bass with hook and line at any time.

(f) Suckers, from April 15 to May 20. In Saginaw bay, suckers may be taken at any time. A person may take suckers with hook and line at any time.

(g) Black crappie, also known as calico bass, in Lake Huron from June 1 to August 25. In Lake Erie, Lake Michigan, and Lake Superior, black crappie may not be taken at any time.

(2) In the waters of Green bay of Lake Michigan within the jurisdiction of this state, which for the purpose of this part are those waters lying inside a line drawn from the most southerly part of Point Detour to the most easterly points of Sumner and Poverty islands, thence due south to the Michigan-Wisconsin boundary line, thence along the boundary line to the shore, a person shall not from April 15 to May 20 set, place, or use any gill net having meshes less than 4-1/2 inches. The department may issue permits under such rules and regulations as prescribed by the department to allow the use of gill nets having meshes not less than 2-1/4 inches or more than 2-3/4 inches for taking herring from the waters of Green bay from April 15 to May 20, if the nets will not interfere with or take any other species of fish. The closed seasons established by this section do not apply to Lake Erie and the lower Detroit river, where nets shall not be set and fish of any kind shall not be taken with nets from January 1 to March 10. A person may take carp with seines at any time from these waters.

(3) In every case, the season shall open and close at 12 noon on the dates named in this section.

(4) All live fish on which the season is closed shall be liberated and returned to the water with as little injury as possible, and any sound, dead fish, on which the season is closed, shall be dressed, brought ashore, and delivered immediately to the department at the department's fishing port, which fish shall be disposed of in the same manner as provided for the disposition of undersized fish in section 47309.

(5) A person shall not set nets or hooks for the taking of lake trout or whitefish before the first day of the open season for taking the fish, and the license of any person shall be immediately revoked upon conviction of unlawfully setting nets before the first day of the open season as provided in this part, and revocation shall prohibit the use of boat and gear by that person during the balance of the year for which a license was issued. A person engaged in the taking of fish for commercial purposes from May 15 to September 15 under this part shall carry sufficient ice and properly chill the fish at the time and place of their removal from the waters.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47312 Taking fish for fish culture; commercial fishing; closing.

Sec. 47312. The department may authorize the taking of trout, whitefish, and yellow pickerel for the

purpose of fish culture at any time during the open or closed seasons provided in this part, when it is determined by test nets set under the direction of the department that at least 20% of the fish taken are females and at least 40% of these females are ripe and ready to spawn. However, when all spawn needed for state and federal hatcheries has been secured, the department may close all commercial fishing during the remainder of the closed season. The department may close all commercial fishing during the closed season on those grounds that are so located as to prevent proper handling of spawn or where it appears that little or no spawn is being taken.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47313 Spawn; handling; violation of part; unlawful taking of trout.

Sec. 47313. All persons engaged in fishing for whitefish, trout, yellow pickerel, or perch in the waters named in this part shall from the beginning of the spawning season for these fish, such time to be determined by test under the direction of the department, until the beginning of the closed season provided by section 47311 and before and after the closed season, strip all ripe fish, both male and female, save all of the spawn, properly impregnate it, and deliver it to the department at its fishing port, and all such persons shall have a sufficient number of people on each boat and all the equipment needed properly to save, handle, impregnate, and deliver such spawn. The saving, handling, impregnating, and delivering of spawn shall be done under the direction of the department and in accordance with such regulations and under such supervision as prescribed by the department. However, the department shall not discriminate against any person engaged in fishing during the closed or open season, having on each boat a sufficient number of people and all the equipment needed properly to save, handle, impregnate, and deliver such spawn at any port or fishing ground when it has been determined that fish are ripe for spawning. This determination shall be made by setting test nets on each fishing ground where spawn will be taken. A person engaged in commercial fishing that fails to properly save, handle, impregnate, and deliver such spawn during any period when spawn are ripe is guilty of a violation of this part. A person shall not take from the waters of the Great Lakes any lake or Mackinaw trout during the closed season established by this part for those fish, except by the use of gill nets, trap nets, and pound nets after tests have been made and the percentage of ripe fish secured as provided for in section 47312.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47314 Spawn; propagation; planting of fry; violation of part.

Sec. 47314. The department shall deliver to designated representatives of the United States bureau of fisheries and to the state fish hatcheries as much of this spawn as may be desired by the bureau and state hatcheries for propagation and planting in the waters of the lakes within the jurisdiction of this state, and the remainder of the spawn shall be properly impregnated and planted upon the spawning beds from which it was taken. The persons so fishing shall plant upon the spawning beds the fry hatched from such proportion of the spawn as may have been taken from the fish caught by the persons when directed to do so by the department. A person refusing or failing to comply with this section is guilty of a violation of this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47315 Taking fish for fish culture; powers of department; sale; disposition of proceeds.

Sec. 47315. The department may take fish in any manner, in any of the waters mentioned in this part, at any and all seasons of the year, for the purpose of fish culture and scientific investigation; may have and hold ripe and unripe fish in order to take spawn from the fish; may sell all of those ripe and unripe fish; and may devote the proceeds of the sales exclusively toward defraying the expenses incurred in taking the fish and fertilizing and planting the spawn from the fish.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47316 Shipments; marketing; seizure as illegal.

Sec. 47316. A person shall not ship or transport within this state any fish in packages or containers without plainly and correctly marking each package or container with the name of the consignor and the kinds of fish

contained in the package. A railroad company, boat line, express company, motor truck company, aerial freight or express company, or other transportation company or common carrier, or any agent of any such company, or the owner of any boat, airplane, car, truck or other vehicle operated privately or as a common carrier, or the agent or representative of such owners, shall not accept for shipment or transport any package or container of fish unless it is properly marked as prescribed in this section. The presence in any package or container of 10% by weight of any fish that is illegal to ship shall make the entire contents of the package or container subject to seizure as an illegal shipment.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47317 Possession of shipment of illegal fish; construction.

Sec. 47317. The possession of any package or shipment of illegal fish offered to any common carrier as described in section 47316 shall be construed to be and shall remain in the consignor until delivered to the consignee. However, if any common carrier as described in section 47316 is not able or refuses or neglects to show from whom the consignment of any shipment of fish was received, the shipment shall be considered to be in possession of the common carrier having the shipment in transit, and they may be proceeded against the same as the original owner.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47318 Repacking after opening; detention of legal shipment prohibited.

Sec. 47318. Any package or car of fish in transit opened by the department, if found to be a lawful shipment under this part, shall be repacked in as good a condition as possible. A package or car of fish legally shipped shall not be detained in transit by or for inspection.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47319 Minimum length and weight requirements; unlawful possession and marketing.

Sec. 47319. (1) A person shall not market, possess, transport, or offer for sale at any time in this state, whether caught within or outside of this state, any of the following:

- (a) Whitefish, of a length less than 17 inches.
- (b) Lake trout, of a weight less than 1-1/2 pounds in the round, and 1-1/4 pounds when dressed.
- (c) Ciscowet trout, of a weight less than 1-1/2 pounds in the round.
- (d) Perch, of a length less than 8-1/2 inches in the round and filleted perch of a weight less than 1-3/4 ounces; perch with heads and tails off of a length less than 5-1/2 inches.
- (e) Suckers, of a length less than 14 inches.
- (f) Northern pike, of a length less than 20 inches.
- (g) Catfish, of a length less than 17 inches. Catfish of not less than 15 inches in length may be taken from the waters of Lake Erie.
- (h) Pike-perch (yellow pickerel), of a length less than 15-1/2 inches in the round and filleted pike-perch (yellow pickerel) of a weight less than 9 ounces. Pike-perch (yellow pickerel) not less than 13 inches in length may be taken from Lake Erie. Pike-perch (yellow pickerel) not less than 13 inches in length taken from the waters of Lake Erie may be sold or offered for sale at a dock or docks along Lake Erie. Any such pike-perch (yellow pickerel) of a length less than 15-1/2 inches shall not be otherwise offered for sale, bartered, or sold within the limits of the state.
- (i) Blue pike, of a length less than 11 inches.
- (j) White bass, of a length less than 9 inches.
- (k) Sturgeon, of a length less than 42 inches.
- (l) Black crappie, of a length less than 7 inches.

(2) Imported commercial fish species and game fish if of a size or weight or species not prohibited by the laws of the state or country where caught may be possessed, transported, offered for sale, and marketed in this state, if either of the following conditions are met:

(a) The fish are processed outside the state and sold to consumers in the same package as imported, and each package is labeled as a product of the state or country where the fish were caught.

(b) A chain of satisfactory evidence of importation is maintained through to the retailer who sells to the

consumer, in a manner prescribed by the department.

(3) The measurement of the length of a fish within the meaning of this part shall be taken in a straight line from the tip of the snout to the utmost end of the tail fin. For the purpose of this part, a “fish in the round” is a fish that is entirely intact as it was taken out of the water with no part removed by dressing. A “dressed fish” is a fish with the head attached but with the gills and the entire gut or viscera (stomach, liver, intestine, gonads) removed. A “filleted fish” is a fish with the entire head, gut or viscera, gills, bones, scales, and all fins removed. The measurements of length and weight as prescribed in this part apply without any allowance made for the shrinkage of the fish. A person shall not possess on any boat, or on any other conveyance used to reach the nets from shore, any meat grinders or similar devices by the use of which the identification of the species or measurement of the individual fish is impossible. A person shall not bring ashore any fish that is so mutilated that identification and measurement is impossible. A person shall not market, possess, or offer for sale any fish illegally taken from the waters defined by this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47320 Undersized fish; return to waters; definition.

Sec. 47320. A person engaged in lifting pound nets, trap nets, or seines in the waters of this state shall not take from the waters of this state any undersized fish, and all undersized fish found in the nets fished in those waters shall be returned to the waters with as little injury as possible by the person or persons lifting the net or nets. For the purpose of this part, undersized fish are fish of a smaller size than established by this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47321 Taking of certain fish by commercial fishing devices prohibited; return to waters.

Sec. 47321. A person shall not take or catch with any kind of a net or other device used in commercial fishing in any of the waters mentioned in this part, any of the following:

- (a) Largemouth black bass, *Huro salmoides*.
- (b) Smallmouth black bass, *Micropterus dolomieu*.
- (c) White crappie, also known as strawberry bass, *Pomoxis annularis*.
- (d) Bluegill, *Lepomis macrochirus*.
- (e) Common sunfish, *Lepomis gibbosus*.
- (f) Brook or speckled trout, *Salvelinus fontinalis*.
- (g) Rainbow and steelhead trout, *Salmo gairdnerii*.
- (h) Brown and Loch Leven trout, *Salmo trutta*.
- (i) Muskellunge, *Esox masquinongy*.

(2) In addition to the prohibition in subsection (1), a person shall not sell or offer for sale or possess at any time any of the fish listed in subsection (1) unless otherwise provided by law. Any such fish, whether dead or alive, shall at once be returned to the waters from which taken by the person or persons taking the fish.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47322 Marking of location of nets and devices.

Sec. 47322. A person shall not set or use nets, set hook lines, or any other continuous device in any of the waters mentioned in this part without marking its location by buoys and identifying the nets or other devices by showing the license number in plain figures upon the bowls of the buoys of the person using the nets, set lines, or other devices; the license number to be attached to all gill net buoys; to the stakes at the heart or pot of pound nets; to the lifting buoy of trap nets, where the heart and pot are set below the surface of the water; to a buoy at the point of heart or pot of fyke nets where the cover of the hearts or pots comes to the surface of the water. However, when any of the nets, set hook lines, or other devices are set under the ice, their location shall be marked by a stake extending not less than 4 feet above the ice at each end of the net or nets, set hook lines, or other continuous device and the license number, in legible figures, shall be attached to each stake or to the ends of the net or nets, set hook line, or other device.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47323 Inspection before shipment.

Sec. 47323. Every person taking fish for market in any of the waters mentioned in this part shall bring them to some port or place in this state where they may be inspected before shipping. However, the department may grant permission to take fish to ports or places in other states when the commercial fishing laws of the other states substantially conform to the commercial fishing laws of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47324 Power of department to take fish for cultural purposes; price; basis.

Sec. 47324. The department may take, for fish cultural purposes only, fish taken by any person fishing in the waters of this state, and when so taken the fish shall be weighed and shall be paid for. The price shall be based on the Chicago, Detroit, and New York markets, or at such other price as may be agreed upon by the person or persons taking the fish and the department, plus the cost of transportation, if any.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47325 Daily report of catch; failure to file; penalty; monthly form.

Sec. 47325. Every person taking fish for the market in any of the waters mentioned in this part shall keep an accurate report of each day's catch upon forms furnished by the department of the number of pounds of each kind of fish taken, of the locality fished, of the kind and amount of fishing gear employed, of the length of time (number of nights) each unit of gear employed fished without being lifted, of the kind and amount of spawn taken, of the kind and amount of caviar taken, and of such other data as the biologists may require in following the trend of the fisheries, and shall each month report, under oath when requested, the above data to the department. Any person whose report for the last preceding month is not received by the department at its office in Lansing, Michigan, on or before the fifteenth day of the month following, is delinquent, and notice to that effect shall be mailed to the delinquent person by the department. Failure to submit a report within 30 days after the close of the month for which a report is required shall be considered as intent to violate this section. The license of any person who fails to submit reports for 2 or more months, and who has been duly notified by the department each following month as provided in this section, may be suspended by the department until such time as the delinquent reports are submitted to the department. The boat and nets for which a license is suspended shall not be used for commercial fishing by any person until the suspension has been lifted and the license restored. However, any person who fails to make the report or reports as described in this section shall be denied a new license or a renewal of his or her license until this part has been complied with. Any person engaged in fishing operations shall submit a monthly form to the department regardless of whether fishing was discontinued for 1 or more months, noting the facts.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47326 Report of fish in possession by commercial fishermen; contents; inspection; prohibited possession.

Sec. 47326. Every person licensed to take fish under this part, at the close of the 24-hour period immediately following the close of the respective open seasons provided for by this part, shall report to the department, on forms provided by the department, the kinds of fish and number or weight of fish possessed at the close of the 24-hour period. Any subsequent shipment or sale, or both, of such fish shall be reported immediately to the department, on forms furnished by the department, showing the amount and kinds of fish shipped or sold, the date of the shipment or sale, and the name and address of the person or persons to whom the fish were shipped or sold. All fish in possession upon which the season is closed shall be made available for inspection at any reasonable time upon the demand of the department. A person shall not possess or ship, transport, or sell any fish upon which the season is closed and which have not been reported as provided in this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47327 Violation of MCL 324.47301 to 324.47325; penalty.

Sec. 47327. Any person who violates sections 47301 to 47325, upon conviction for the first offense shall be punished by imprisonment for not more than 30 days, or a fine of not less than \$25.00 or more than \$100.00 and costs of prosecution, or both. For the second or a subsequent offense, charged as a second or subsequent offense in the complaint, the person shall be punished by imprisonment for not less than 30 days or more than 90 days, or a fine of not less than \$50.00 or more than \$100.00 and costs of prosecution, or both. If a fine with costs is imposed under this part, the court shall sentence the offender to be confined in the county jail until the fine and costs are paid, but for a period not exceeding the maximum penalty for the offense.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47328 License to use fishing devices; sport trolling; licensing boats for hire; license not required under certain conditions in lake St. Clair.

Sec. 47328. A person shall not use any kind of a boat, tug, or launch, except when used in hook and line fishing, or any kind of net or nets, set hook lines, or commercial trolling rigs for the purpose of taking, catching, killing, or transporting fish in any of the waters bordering on this state, regardless of whether for commercial purposes or for personal use, without first having applied for and been issued a license for that activity, in accordance with this part. A license, except as otherwise provided by law, is not required of persons engaged in sport trolling in these waters, except that the owners of boats operated with either an inboard or outboard motor and offered for hire in sport trolling for lake trout shall obtain a license for each boat. A license, except as otherwise provided by law, is not required of persons engaged in taking fish with set lines in lake St. Clair as provided in section 47302.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47329 Commercial fishing licenses; application; contents; “overall length” defined; fee.

Sec. 47329. (1) A person desiring a license under this part shall submit an application for that license to the department on oath when required on a form provided for that purpose by the department, accompanied by the fee required under this part. The application shall state the name and residence of the applicant, the manner in which he or she proposes to fish, the name or number of the tug, launch, boat, scow, or skiff, the overall length and the gross tonnage of the boat, the value of the boat, the name of the port from which the boat will operate, the number and kind of net or nets and hooks or other gear which he or she intends to use, the value of the buildings and grounds, and such other information as may be required for statistical purposes.

(2) As used in this section, “overall length” means the minimum distance between the extreme outside end of the bow and the stern considering the nearest whole number of feet. The amount of the license fee to be paid shall be based on the overall length of the boat or boats, if a boat is used.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47330 License to use fishing devices; issuance fees.

Sec. 47330. (1) The department, when application is made by any person in accordance with section 47329, shall issue the license provided for in this part upon payment by the applicant, if a resident of this state, of the following fees:

(a) For fishing with set hook lines or nets, with or without a boat not exceeding 16 feet in overall length, or a boat used in sport trolling for lake trout for hire, \$16.00 per year. Any person using more than a single crew consisting of not more than 4 people in fishing nets or hooks under the ice shall secure a license for each crew member. The department, upon proper application, shall issue with each license to fish nets or set hook lines under the ice 4 identification cards bearing the number of the license and the year for which issued. Each member of a single crew engaged in the setting, lifting, or pulling of nets, set hook lines, or other devices, set under the ice under authority of the license, shall carry the card on his or her person at all times while so engaged and upon demand of any conservation officer shall exhibit the card. Minnow seines and dip nets are exempt from this section.

(b) For each rowboat, sailboat, powerboat, motorboat, steamboat, or scow used in catching, killing, taking,

or transporting fish caught with nets, set hook lines, or trolling rigs, \$3.00 per foot overall length, and \$1.00 per ton additional for each ton over 10 gross tons. A license is not required for a scow used only in transporting nets. Each license for a boat propelled by sail, steam, gas, or other mechanical power entitles the licensee to operate a rowboat not exceeding 16 feet in overall length. Each rowboat shall bear the same identification as the boat for which the license is issued and shall be used only while attending the boat. A resident person shall not pay less than \$50.00 or more than \$200.00 on any 1 boat in any 1 license year.

(2) For a nonresident of this state, the fee shall be 5 times the fee required of a resident in accordance with the schedule prescribed in this section. A license under section 47329 shall not be issued to a nonresident for fishing in Lake Erie and Lake Huron except at the discretion of the department.

(3) For the purpose of this part, a nonresident is any person who has not actually resided in this state for 3 years immediately prior to the date of application for a license, any person applying for a license for use of nets or a boat registered or of record at a port outside of the state, or any firm, company, copartnership, partnership, association, or corporation in which any of their stock, boats, nets, and fishing equipment has been owned by nonresident persons at any time during the 3 years immediately prior to the date of application for a license.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47331 Commercial fishing licenses; form; tag attached to boat; fee; transfer procedure.

Sec. 47331. (1) Upon the payment of the fee provided for in section 47330, the department shall have prepared and shall issue to a person entitled to the same, a printed or written license signed by the department setting forth the date of issuing the license, to whom issued, the date on which it will expire, the name or number, and the kind of boat, tug, or launch, including the number of and kind of net or nets for which the license was issued. The department shall also issue, with the license, a suitable tag bearing the license number and the year for which issued which must be attached to the boat to facilitate identification. The department, upon application and the payment of a fee of \$1.00, may do 1 or more of the following:

(a) Permit the transfer of a license to a larger or a smaller boat or to any boat, tug, or launch during a period of time that the licensed boat, tug, or launch is disabled and undergoing repairs.

(b) In case of the sale or the transfer of the title of any licensed boat, transfer the license to the new owner or owners. However, if the sale or transfer is to a nonresident as determined by the preceding sections, then the difference between the fee for a resident license and a nonresident license shall also be paid.

(c) In case of the loss of a vessel by fire, collision, or otherwise, for which a license has been issued, transfer the license to any similar boat to which the licensee may acquire title.

(2) Whenever a license is transferred to a larger boat, the difference between the fee paid for the license and the fee required by this part for that boat shall also be paid. A refund shall not be made when a license is transferred to a smaller boat. However, any boat to which a license has been transferred as provided in this section shall be used in the taking, catching, or killing of fish or in the setting or pulling of nets, set hook lines, or other commercial fishing devices, only within a radius of 50 miles of the port designated in the license as originally issued, and not more than 1 license shall be issued for any 1 boat in any 1 calendar year. The owner of any licensed boat acquired from the estate of a deceased licensee or as a result of bankruptcy proceedings may, in addition to having the license transferred in his or her name, have a port of his or her choice designated in the license.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47332 Licenses; expiration date; record of applications and licenses; disposition of fees.

Sec. 47332. All licenses expire on December 31 in the calendar year for which they were issued. The department shall keep a record of all applications and licenses. On the first day of each month, the department shall pay over to the state treasurer all money received by the department under this part, and the money shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and shall be disbursed by the state treasurer for services of the department and the department's expenses in enforcing the commercial fishing laws, for the protection and propagation of fish, and for the purchase of patrol boats and other apparatus to be used for that purpose, and as otherwise provided by law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.47333 Wholesale fish market or house; license; fee; label on containers; record.

Sec. 47333. (1) Every person who deals in fish by operating a wholesale fish market or fish house, or who solicits the purchase of or buys fish for wholesale distribution, shall secure a license from the department. Each license shall expire on December 31, and the fee for the license is \$5.00.

(2) A person holding a license under the provisions of this section shall not transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any fish or carcass or part of any fish or carcass unless the package or parcel is labeled in plain English on the address side of the package or parcel so as to disclose the name and address of the consignor, the name and address of the consignee, and the number of pounds of each kind of fish contained in the package or parcel.

(3) Any person licensed under this section may, at any time, sell, purchase, or barter, or have in his or her possession or under his or her control for the purpose of sale or barter, any commercial fish. However, the provisions of section 47319 shall at all times be observed. Each person shall keep a separate record of the purchase of fish in a form as required by the department. The record shall at all times be open to inspection by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47334 Violation of sections; penalties.

Sec. 47334. Any person who violates sections 47328 to 47333 is guilty of a misdemeanor and upon conviction for the first offense shall be punished by imprisonment for not more than 60 days, or a fine of not less than \$25.00 or more than \$100.00 and the costs of prosecution, or both. Each violation is a separate and distinct offense. In addition to the penalties provided in this section, the license of any person convicted of violating section 47333 may be revoked by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47335 Nets and seines; prohibited use in certain waters of Lake Superior.

Sec. 47335. A person shall not take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind except with hook and line and spear in the waters of Lake Superior within a radius of 1/2 mile from the mouth of the Two Hearted river located in T 50 N, R 9 W, Luce county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47336 Grand Traverse bay.

Sec. 47336. A person shall not take or attempt to take fish with seines or nets of any kind in that part of Grand Traverse bay lying southerly of a line drawn due east and west through Mission Point light, Grand Traverse county, said waters being further described as the east arm and the west arm of Grand Traverse bay. A person may take chubs with gill nets in any part of Grand Traverse bay where the depth of water exceeds 300 feet.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47337 Charlevoix bay.

Sec. 47337. A person shall not take or catch, or attempt to take or catch, any species of fish with gill nets, pound nets, trap nets, seines, set hook lines, or any other device whatsoever, except a hook and line and spear as permitted by law, or set any such nets, seines, set hook lines, or devices, in the waters of Lake Michigan within a radius or distance of 2 miles from Charlevoix south pierhead light, located at the mouth of the Pine river in Charlevoix county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47338 Setting or using nets near public docks or piers prohibited; exceptions.

Sec. 47338. A person shall not set or use any kind of a net mentioned in this part, except seines in the taking of noxious fish, within a radius of 1/2 mile of any public dock or pier from which the public is not excluded from fishing with hook and line. However, a person may set nets under the ice for the purpose of taking all fish, except perch, within the 1/2 mile radius of any such dock or pier. Public docks for the purpose of this part include all docks except docks owned by individuals and used exclusively for their own boats. This section does not apply to St. James Harbor, Beaver Island, and Charlevoix county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47339 Saginaw bay.

Sec. 47339. As used in this part, "Saginaw bay" means those waters lying inside of a line drawn from Tawas point lighthouse in Iosco county to a monument which shall be erected by the department on Oak point in Huron county, including the waters of Tawas bay, in which area nets may be set and used as provided by law. However, nets shall not be set or used in any of the following locations:

(a) Within that area between the shoreline and a line drawn from a monument which shall be erected by the department on Fish point in Tuscola county to a monument which shall be erected by the department on the westerly point of Stony island, thence to a monument which shall be erected by the department on the westerly point of North island, thence to a monument which shall be erected by the department on the westerly end of Sand point in Huron county. However, nets may be used in that part of this area lying southerly of the south line of section 21, town 16 north of range 9 east, extending due west. Seines not exceeding 5 feet in depth and 100 rods in length may be used in that part of this area lying northerly of the south line of section 21, town 16 north, range 9 east, extending due west, for the taking of noxious fish.

(b) Within that area enclosed within and bounded by the following lines: beginning at the monument on Sand point described in subdivision (a), thence for a distance of 1 mile along a line drawn from that monument to a monument to be erected by the department on the easterly point of Little Charity island, thence 218 degrees along a line to a point where it would intersect a line drawn from the Gravelly point shoal lighthouse to the monument on North island described in subdivision (a), thence southeasterly along the latter line to the monument on North island, thence northeasterly to the point of beginning; the object being to provide a channel approximately 1 mile in width for the free passage of fish.

(c) Within that area of Tawas bay bounded on the south by a line extending from the U.S. fog signal building on Tawas point due west to the mainland.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47340 Marquette Bay.

Sec. 47340. A person shall not drive stakes for fishing purposes, or set, place, or extend any pound, trap, stake, or set net of any kind, or any other device, except hook and line and spear as permitted by law, to take or catch fish in the waters of Marquette Bay, beginning with a line from the Presque Isle breakwater on the S.S.E. period line to east side of section 8 opposite the mouth of the Chocoday river.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47341 Grand Marais harbor.

Sec. 47341. Commencing June 15, 1962, a person shall not place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook line in the waters of east bay and west bay, Grand Marais harbor, and in the waters of Lake Superior within 2 miles on either side of the range lights at the entrance to Grand Marais harbor, extending out to 30 fathoms of water, all in Alger county, Michigan.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47342 False Presque Isle bay.

Sec. 47342. A person shall not set nets or seines of any kind or description west of a certain line commencing at the 1/4 post between sections 13 and 24 in town 33 north, range 8 east; thence north across the bay of False Presque Isle to 1/4 post between sections 12 and 13 in said town 33 north, range 8 east, in Presque Isle county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47343 Presque Isle harbor.

Sec. 47343. A person shall not take or attempt to take fish with seines, set hook lines, or nets of any kind in the waters of Presque Isle harbor and that portion of Lake Huron within a line drawn between Presque Isle light in section 8, town 34 north, range 8 east, and South Albany Point in section 22, town 34 north, range 8 east, Presque Isle county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47344 Thunder Bay.

Sec. 47344. A person shall not catch or take fish of any kind with a net or other device of any kind, except hook and line and spear as permitted by law, from that part of Thunder Bay in Lake Huron, lying inside, or south and west of a straight line extending from the mouth of Thunder Bay river to the center of Surplur Island; thence south and east to the north and south line between sections 20 and 21 in township 29 north, of range 9 east, in the state of Michigan, where said line intersects the waters of the said lake, excepting therefrom that part of said Thunder Bay in front of sections 2, 11 and 12 in township 29 north, of range 8 east, and sections 34 and 35 in township 30 north, of range 8 east. However, no net or other device of any kind, except hook and line and spear as permitted by law, shall be used by any person to take or catch fish in that part of the waters of said Thunder Bay within 1/2 mile of the mouth in any direction of any stream that discharges its waters into that portion of said Thunder Bay.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47345 Whitney bay.

Sec. 47345. A person shall not fish with, use, or set any seines, gill nets, or any form of pound, trap, sweep, or set nets, or any similar device for taking fish in Whitney bay or any waters tributary to that bay in the township of Drummond, county of Chippewa.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47346 Pike Bay and Island Harbor.

Sec. 47346. A person shall not take or catch fish of any kind with gill nets, trap nets, pound nets, seines, or other device of any kind, except hook and line, in that part of upper Lake Huron known as Pike Bay and Island Harbor within a line drawn from the most southerly point of section 17, town 41 north, range 5 east, on Drummond Island to the most westerly point of Espanore Island; thence southerly and easterly along the shore to the most southerly point of said Espanore Island; thence due east to the mainland of Drummond Island. However, a person may use spears through the ice of those waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47347 Straits of Mackinac.

Sec. 47347. A person shall not take or catch fish of any kind with gill nets, trap nets, seines, or other device

of any kind, except hook and line and spear as permitted by law, in that part of the Straits of Mackinac, within 1 mile from the shoreline, from a point where the section line between sections 22 and 23, town 40 north, of range 4 west intersects the Straits of Mackinac, and running from there easterly to where the west line of the city limits of the city of St. Ignace intersects the Straits of Mackinac, and within 1/2 mile from there easterly and northerly to where the north line of the city of St. Ignace intersects Lake Huron or the Straits of Mackinac.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47348 Les Cheneaux channels.

Sec. 47348. (1) A person shall not fish with seines, gill nets, or any form of trap nets, or in any manner except by hook and line, the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances to the channels or in the waters adjacent to the channels, within a line drawn as follows: Beginning at the southerly extremity of the point of land on the easterly side of Dudley bay; running thence southwesterly in a straight line to the southeasterly extremity of Beaver Tail Point; thence westerly in a straight line to the southeasterly point of Crow island; thence southwesterly in a straight line to the extreme southeasterly point of Boot island; thence southwesterly in a straight line to Point Fuyards; thence northwesterly in a straight line to the extreme southerly part of St. Martin's Point. However, pound nets of legal mesh and size, for the taking of whitefish and lake trout, may be set and used in any place in the protected waters, except in that portion of Prentice bay lying north of a line drawn from the south end of Scotty's Point to the south end of Whitefish Point and in the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances to the channels, lying west of the east line of section 34, in town 42 north, range 1 east, said line running north and south. Gill nets of not more than 150 feet in length and of the size mesh established in section 47309 for taking herring and menominees may be legally used and set in the protected waters, at any place or places where nets for the taking of whitefish and lake trout are permitted by this part, during the months of January, February, and March of each year, for the purpose of taking herring and menominees for commercial purposes. A person may use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike. If perch, black bass, northern pike, or pike-perch are taken in any of the nets described in this section used for the taking of whitefish and lake trout, menominee, or herring, as permitted by this part, they shall be immediately released and placed back in the water.

(2) A person shall not take more than 50 perch by hook and line and spear from waters described in this section, in any 1 day, and the sale of any perch, black bass, northern pike, or pike-perch caught or taken from those protected waters by hook and line and spear, is unlawful.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47349 Fishing in certain water of upper Lake Huron with fishing devices; prohibition; exceptions; spearing through ice for certain fish; open season.

Sec. 47349. A person shall not take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind, except a hook and line, in those waters of upper Lake Huron within the following boundaries: Beginning at a point where the north line of town 41 north intersects the shore of the mainland south of the village of Detour, in Chippewa county; thence due east to Drummond Island; thence northerly and easterly along the shore of Drummond Island to a point where the section line between sections 23 and 24, town 43 north, range 6 east, on Poe Point, meets the waters edge; thence northwesterly to a point on the international boundary line where it intersects a line drawn due north from the most westerly end of Chippewa Point; thence due north to the international boundary line; thence westerly along said international boundary line to a point where it intersects a line drawn due east through the most southerly point of Little Lime Island; thence due west from said point to the mainland; thence following the shore of the mainland southeasterly to the point of beginning. However, nets with meshes not less than 4-1/2 inches and set hook lines may be used from December 15 to April 1 of each year in these waters except in that portion of Potagannissing Bay lying southerly of a line drawn from the most northerly part of Dix Point on section 19, town 42 north, range 5 east, to Chippewa Point on section 30, town 43 north, range 6 east, on Drummond Island, Chippewa county, where no device for taking fish other than a hook and line shall be used at any time. A person shall not take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind, except a hook and

line, in the waters on the south side of Drummond Island lying north of a line beginning at the most southerly part of Cream City Point on section 22, town 41 north, range 5 east, thence easterly to Traverse Point, thence easterly to Scammon Point, thence southeasterly to the most southerly part of Long Point on section 29, town 41 north, range 7 east. A person may use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47350 Little Traverse bay.

Sec. 47350. A person shall not take or catch fish of any kind with gill nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, and except the dipping of minnows, as defined in section 48728, by hand net and the taking of minnows by glass trap, in that part of Little Traverse bay on Lake Michigan, lying east of the line common to sections 9 and 10, township 34 north, of range 6 west, extended northerly across the bay to meet the line common to sections 9 and 10, township 35 north, of range 6 west, all in Emmet county. Minnows may be taken or caught from the waters above-described by use of a seine, hand net, or glass trap except seines may not be used within 100 feet of any public dock from which the public is not excluded from fishing with hook and line.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47351 Little Bay de Noquette.

Sec. 47351. A person shall not fish with, use, or set any seines, gill nets, or any form of pound, trap, sweep, or set nets, or any like device, or use any spear, night line, or set line for taking fish in any of the waters of this state known as Little Bay de Noquette, which means those waters of Little Bay de Noquette and tributaries north from a line drawn from the extreme end of Saunders' Point on the west shore to the extreme end of Squaw Point on the east shore. However, a person may from December 15 to April 1 of each year take suckers in any of the waters described in this section by means of pound nets, if the pound nets are lifted only under the supervision of representatives of the department. A person may use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47352 Garden bay.

Sec. 47352. A person shall not take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, in the waters of Garden Bay on Lake Michigan within a radius of 1-1/4 miles from the mouth of Garden Creek, Delta county. However, nets as used in Big Bay De Noc for taking smelt may be used also in Garden Bay to take smelt if they do not take or injure any other species of fish.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47353 Little Bay de Noquette, Big Bay de Noquette, and Green Bay.

Sec. 47353. A person shall not in the waters of this state known as Little Bay de Noquette and Big Bay de Noquette, and that part of Green Bay lying north of a line drawn from the point where the south boundary of Delta county (being the south line of township 37 north) meets the west shore of Green Bay, thence easterly to the most southerly point of St. Martin Island, thence northeasterly through the most southeasterly point of Poverty Island to the most southeasterly point of Summer Island (also called Big Summer Island), thence northerly along the shore of Summer Island to the most easterly point thereof, thence northerly to the navigation buoy off the south end of Point Detour:

(a) Fish, set, use, or maintain in the water any pound net designed for the impounding of fish, unless the

pound net is held in place solely by 10 or more stakes driven firmly into the ground beneath the water.

(b) Fish, set, use, or maintain any pound net in water having a depth greater than 50 feet.

(c) Fish, set, or have in the water any trap net, hoop net, fyke net, drop net, or gobbler net at any time from April 15 to May 20.

(d) Fish, set, use, maintain, or permit to remain in the water any net of any description, except minnow seines, between July 1 and September 10, in whole or in part within any of the areas described as follows:

(i) In Big Bay de Noquette north of a line from the southernmost tip of Porcupine Point to the westernmost tip of Valentine Point.

(ii) In Little Bay de Noquette between the westerly shore and a line drawn from the extreme end of Saunders Point to the extreme end of Squaw Point and thence to the mouth of the channel into the Gladstone yacht harbor.

(iii) In Little Bay de Noquette and Green Bay between the westerly shore and a line drawn from the most easterly point on Portage Point 1 and 1/2 miles south, thence in a general southerly direction parallel to the westerly shoreline and 1 and 1/2 miles out from shore to a point where the township line between town 37 n and 38 n, r 23 w intersect, thence west to the shore.

(e) Subdivisions (a) and (b) do not apply to or restrict the fishing, setting, use, or maintenance of pound nets otherwise lawfully used for the taking of smelt or herring during the winter months under the ice.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47354 Keweenaw bay.

Sec. 47354. A person shall not take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound or trap nets or in any manner except by the use of hook and line and spear as permitted by law in the waters of L'Anse bay, which are defined as follows: South of an east and west line beginning at the meander corner between sections 25 and 36, township 51 north, range 33 west, and extending west to the meander corner between section 27 and section 34, township 51 north, range 33 west. In the remaining waters of Lake Superior inside of a line extending from Manitou light on Manitou island, Keweenaw county, to the Huron island light on west Huron island and thence to the mouth of the Huron river in township 52 north, range 29 west, Marquette county, excluding Huron bay as defined in section 47356, from January 1 to October 31 in each year a person shall not set or use in waters between 120 feet in depth and 300 feet in depth any gill net with meshes less than 4-1/2 inches, except for taking herring when the net is floated so that the lower line of the net is not more than 42 feet below the surface of the water, and for the taking of bait for set hook lines in accordance with section 47309.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47355 Portage Lake ship canal.

Sec. 47355. A person shall not take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound nets or trap nets or in any manner except by the use of hook and line in those waters of Houghton county, commencing at the northerly entrance to Portage Lake and extending through Portage Lake ship canal and within 1/2 mile in all directions from the canal entrance inside of the breakwaters. However, a person may use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47356 Huron bay.

Sec. 47356. A person shall not take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound or trap nets or in any manner except by the use of hook and line in the waters of Huron bay, which within this part mean: South of an east and west line beginning at the meander corner between sections 14 and 23, township 52 north, range 31 west, and running west to the meander corner between sections 15 and 22, township 52 north, range 31 west, Baraga county. A person may use spears through the ice of those waters during the months of January, February, and March for taking carp, suckers, mullet, redhorse, sheepshead, Rendered Friday, January 22, 2010

lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47357 Duncan Bay.

Sec. 47357. A person shall not use any kind of a net, set hook line, or other device for the purpose of taking or catching fish in the waters of Duncan Bay, Lake Huron, which as used in this part mean all those waters of Duncan Bay, Lake Huron, lying south of a line drawn west from Cheboygan Point lighthouse on Lighthouse Point to a point where the easterly boundary line of Beaugrand township meets the westerly boundary line of the corporate limits of the city of Cheboygan extended due north would intersect the waters of Lake Huron. However, a person may take or catch fish in these closed waters with hook and line or spears in accordance with the laws of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47358 Munising and Murray bays.

Sec. 47358. A person shall not take or catch fish of any kind in any manner except with hook and line and spear as permitted by law in any of the waters of Munising and Murray bays of Lake Superior which as used in this part mean those waters of Munising and Murray bays of Lake Superior lying westerly of a line drawn from Sand Point in section number 19, town 47 north, range 18 west, to the eastern end of the eighth line dividing lots 1 and 2 in the northeast quarter of section number 24, town 47 north, range 19 west, and easterly of a line drawn from the southern end of the quarter line between lots 2 and 3 of section number 22, town 47 north, range 19 west, to the northern end of the quarter line between lots number 2 and 3 in section number 27, town 47 north, range 19 west, and fish so taken shall not be bought or sold.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47359 Bait; taking with nets.

Sec. 47359. The taking of minnows as defined in section 48728 and other small fish for bait with nets not otherwise prohibited by law is not a violation of this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47360 Construction of part.

Sec. 47360. Nothing contained in this part authorizes the taking, selling, or transporting of fish, the use of illegal nets, or the setting of nets at a place or places or at times otherwise forbidden by law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47361 Violation; penalty.

Sec. 47361. A person who violates sections 47335 to 47360 is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not less than \$10.00 or more than \$100.00 and costs of prosecution, or both. The license of any person convicted of 3 violations of this part or other acts or parts regulating commercial fishing in any 1 license year shall be automatically revoked and canceled for the balance of the license year for which issued, and such a revocation prohibits the use of boats, nets, or other gear by any person during the balance of the year for which the license was issued.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47362 Part 479 not repealed.

Sec. 47362. This part shall not be construed to repeal part 479.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 475

FISH HATCHERIES FOR RESTOCKING THE GREAT LAKES

324.47501 Fish hatcheries to restock Great Lakes; establishment; plan.

Sec. 47501. The department may plan the establishment of fish hatcheries for the propagation and cultivation of pickerel, trout, and whitefish for restocking the Great Lakes that border this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 477

FISH RESTORATION AND MANAGEMENT PROJECTS

324.47701 Fish restoration; cooperation with federal government; funds accruing from license fees; use.

Sec. 47701. The department may perform acts as may be necessary to the establishment and management of fish restoration, management, and research projects and areas in cooperation with the federal government as defined in chapter 658, 64 Stat. 430, 16 U.S.C. 777 to 777e, 777f to 777i, and 777k to 777 l, commonly known as the federal aid in fish restoration act, and with rules and regulations promulgated by the United States secretary of the interior under that act; and in compliance with that act, funds accruing to the state from license fees paid by anglers shall not be used for any purpose other than fish and game activities under the administration of the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 479

FISHERIES CONTAMINATION

324.47901 Refuse from fish catch; disposal.

Sec. 47901. All fish, offal, or filth accruing from the catching and curing of fish shall be burned or buried at least 10 rods away from the beach or shore of any stream, pond, or lake.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47902 Nonresident fishing license; fee; forfeiture; disposition of money accrued.

Sec. 47902. The county board of commissioners of each county, or a majority of the county board of commissioners, shall grant, on the application of a nonresident person, a written 1-year license, for each pound or trap net used, upon payment of \$50.00. A person who violates this part shall forfeit the sum of \$100.00, and all costs of suit. The county board of commissioners, or a majority of the county board of commissioners, shall enforce this part, and all money accruing from fishing licenses and forfeitures shall be paid to the county treasurer.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47903 Dumping into waters prohibited; molesting of nets.

Sec. 47903. A person shall not put into any stream, pond, or lake any sand, coal, cinders, ashes, log slabs, decayed wood, bark, sawdust, or filth. A boat owner, a captain of any boat or vessel, or any other person shall not run into or molest any pond net, trap net, or other stationary net or fixture set in any lake for fishing purposes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47904 Violation of part; penalty.

Sec. 47904. A person who violates this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both, and the person shall be liable civilly for damages done in an action in any court having jurisdiction.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.47905 Prohibited acts; penalty; civil liability.

Sec. 47905. A person shall not willfully cut, tear, untie, remove, or in any manner injure, damage, molest, or destroy any net, rope, line, stake, anchor, or other property belonging to, in use, or to be used in any pond net or trap net or other net or nets and fixtures thereto belonging, lawfully set and used for the purpose of taking fish from any of the lakes or streams in this state or in any of the lakes or waters bordering upon this state. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 6 months, or both, and the person is liable civilly for all damages done willfully to the property to the legal owners or occupants of the property, to be recovered in an action of trespass in any court having jurisdiction in the county where the property is located.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 483

PASSAGE OF FISH OVER DAMS

324.48301 Free passage of fish; rules; fish ladders.

Sec. 48301. The department shall prescribe rules and regulations to provide for the free passage and uninterrupted passage of fish over or through dams now in existence or that are or may be erected over rivers, streams, or creeks. The department may abrogate the provisions of this part that require the erection of fish ladders if the department determines that the height of the dam or the condition of the river or stream makes the installation of the ladders impracticable or unnecessary.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48302 Inspector of dams; duties; plan; contents; copies.

Sec. 48302. The department is the inspector of dams across rivers, streams, and creeks of this state and shall prepare a draft of a general plan that the department determines will best permit the free passage of large and small fish up and down a stream at the dam. Each plan shall set forth details and specifications for material and construction and connection with the dam that will enable the owner of the dam to properly construct and place the means designated. The department shall furnish a copy of the plans and specifications to each owner or occupant of a dam, on request.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48303 Order to provide free passage of fish; compliance; kind and manner.

Sec. 48303. Any person owning or using any dam that exists or may be constructed across any river, stream, or creek in this state, if ordered by the department, shall, within 90 days after the issuance of the order, erect and maintain in good repair sufficient and permanent means to admit the free and uninterrupted passage of fish over or through the dam. The means providing for the free passage of fish shall be of a kind and shall be placed in a manner prescribed by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48304 Prosecutions; mandamus.

Sec. 48304. The department shall prosecute in the name of the people of the state in all cases where this part is violated, and the prosecuting attorney of the county in which a prosecution is commenced under this part shall aid in the prosecution when requested to do so by the department. The attorney general may institute mandamus proceedings in the circuit court for Ingham county to compel any person to comply with this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48305 Violations of part; separate offenses.

Sec. 48305. If any person owning, using, or employing the use of any dam across any of the rivers, streams, or creeks of this state refuses or fails to erect and maintain in proper repair the means or equipment ordered by the department, that person is guilty of a violation of this part, and every period of 30 days during which any person owning or using a dam fails to erect or maintain in proper repair the means or equipment for the free passage of fish renders that person guilty of a distinct and separate offense of this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48306 Construction of passageways for fish by department; expenses; payment; tax assessment.

Sec. 48306. If the owner or user of any dam refuses or fails to construct and maintain the means or equipment for the free passage of fish when ordered by the department, the department may cause the same to be constructed over or through the dam at the place in the dam that will cause the least injury to the water power, and the expense of the construction of the means for the free passage of fish shall be certified by the department to the county board of commissioners of the county in which the dam is located, and the expense shall be audited by the county board of commissioners and shall be paid from the general fund of the county. The county board of commissioners of any county, upon auditing and allowing the expense, shall order, by resolution, the supervisor of the township or ward in which the dam is situated to spread the expense upon the assessment roll of the township or ward as a tax against the property to which the dam is appurtenant and against the owners of the property to be collected in the same manner as other township taxes and paid over to the county treasurer or returned as delinquent in accordance with law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48307 Passage of fish through and over dams; apparatus obstructing rivers, streams, or creeks prohibited; violation; authority of department.

Sec. 48307. Except as authorized by law, a person shall not obstruct the channel or course of any river, stream, or creek in this state by placing or causing to be placed in that river, stream, or creek any net, wire, screen, or any other apparatus or material of any kind that will prevent the free passage of fish up and down the river, stream, or creek. A person who violates this section is guilty of a violation of this part. The department may in the public interest authorize the placing of screens in any river, stream, creek, or in the inlet or outlet of any lake.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 485

SPEARING OF FISH IN HOUGHTON LAKE PROHIBITED

324.48501 Spearfishing in Houghton lake prohibited; penalty.

Sec. 48501. A person shall not spear fish in Houghton lake, Roscommon county. A person who violates this part shall, upon conviction, be punished by a fine of not less than \$10.00 or more than \$100.00, or imprisonment for not less than 10 days or more than 90 days, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 487
SPORT FISHING
SUBPART I
DEFINITIONS

324.48701 Definitions.

Sec. 48701. As used in this part:

- (a) "Amphibian" means any frog, toad, or salamander of the class amphibia.
- (b) "Crustacea" means any freshwater crayfish, shrimp, or prawn of the order decapoda.
- (c) "Dip net" means a square net that is constructed from a piece of webbing of heavy twine, hung on heavy cord or frame so as to be without sides or walls, and suspended from the corners and attached in such a manner that when the net is lifted no part is more than 4 feet below the plane formed by the imaginary lines connecting the corners from which the net is suspended. As used in fishing, it shall be lowered and raised vertically as nearly as possible.
- (d) "Game fish" includes all of the following:
 - (i) Lake trout (*Salvelinus namaycush*).
 - (ii) Brook trout (*Salvelinus fontinalis*).
 - (iii) Brown trout (*Salmo trutta*).
 - (iv) Rainbow or steelhead trout (*Oncorhynchus mykiss*).
 - (v) Atlantic landlocked salmon (*Salmo salar sebago*).
 - (vi) Grayling (*Thymallus arcticus*).
 - (vii) Largemouth bass (*Micropterus salmoides*).
 - (viii) Smallmouth bass (*Micropterus dolomieu*).
 - (ix) Bluegill (*Lepomis macrochirus*).
 - (x) Pumpkinseed or common sunfish (*Lepomis gibbosus*).
 - (xi) Black crappie and white crappie, also known as calico bass and strawberry bass (*Pomoxis nigromaculatus* and *Pomoxis annularis*).
 - (xii) Yellow perch (*Perca flavescens*).
 - (xiii) Walleye (*Sander vitreus*).
 - (xiv) Northern pike (*Esox lucius*).
 - (xv) Muskellunge (*Esox masquinongy*).
 - (xvi) Lake sturgeon (*Acipenser fulvescens*).
 - (xvii) Splake (*Salvelinus namaycush* x *Salvelinus fontinalis*).
 - (xviii) Coho salmon (*Oncorhynchus kisutch*).
 - (xix) Chinook (King) salmon (*Oncorhynchus tshawytscha*).
 - (xx) Pink salmon (*Oncorhynchus gorbuscha*).
- (e) "Genetically engineered" refers to a fish whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques.
- (f) "Hand net" means a mesh bag of webbing or wire suspended from a circular, oval, or rectangular frame attached to a handle.
- (g) "Inland waters of this state" means the waters within the jurisdiction of the state except Saginaw river, Lakes Michigan, Superior, Huron, and Erie, and the bays and the connecting waters. The connecting waters between Lake Superior and Lake Huron are that part of the Straits of St. Mary in this state extending from a line drawn from Birch Point Range front light to the most westerly point of Round Island, thence following the shore of Round Island to the most northerly point thereof, thence from the most northerly point of Round Island to Point Aux Pins light, Ontario, to a line drawn due east and west from the most southerly point of Little Lime Island. The connecting waters of Lake Huron and Lake Erie are all of the St. Clair river, all of Lake St. Clair, and all of the Detroit river extending from Fort Gratiot light in Lake Huron to a line extending due east and west of the most southerly point of Celeron Island in the Detroit river.
- (h) "Mollusks" means any mollusk of the classes bivalvia and gastropoda.
- (i) "Nongame fish" includes all kinds of fish except game fish.
- (j) "Nonresident" means a person who is not a resident.
- (k) "Nontrout streams" means all streams or portions of streams other than trout streams.
- (l) "Open season" means the time during which fish may be legally taken or killed and includes both the first and last day of the season or period designated by this part.
- (m) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is

isolated and manipulated in vitro and then inserted into an organism.

(n) "Reptiles" means any turtle, snake, or lizard of the class reptilia.

(o) "Resident" means either of the following:

(i) A person who resides in a settled or permanent home or domicile with the intention of remaining in this state.

(ii) A student who is enrolled in a full-time course at a college or university within this state.

(p) "Trout lake" means a lake designated by the department in which brook trout, brown trout, or rainbow trout are the predominating species of game fish. The department may designate certain trout lakes in which certain species of fish are not desired and in which it is unlawful to use live fish of any kind for bait.

(q) "Trout stream" means any stream or portion of a stream that contains a significant population of any species of trout or salmon as determined by the department. The department shall designate not more than 212 miles of trout streams in which only lures or baits as the department prescribes may be used in fishing, and the department may prescribe the size and number of fish that may be taken from those trout streams. The department shall not restrict children under 12 years old from taking a minimum of 1 fish, except for lake sturgeon (*Acipenser fulvescens*), in any trout stream. Any trout stream in a county that includes a city with a population of 750,000 or more shall be so designated. In addition, the department shall issue an order adopting criteria for determining which trout streams should be so designated. Before the department issues the order, the department shall submit the proposed order to the commission. The commission shall receive public comment on the proposed order. The department shall consider any guidance provided by the commission on the proposed order and may make changes to the proposed order based on that guidance.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2002, Act 434, Imd. Eff. June 10, 2002;—Am. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2008, Act 291, Imd. Eff. Oct. 6, 2008.

Popular name: Act 451

Popular name: NREPA

324.48702 Fish, reptiles, amphibians, mollusks, and crustaceans as property of state; exception; registration under Michigan aquaculture development act.

Sec. 48702. (1) Except as otherwise provided in subsection (2), all fish, reptiles, amphibians, mollusks, and crustaceans found in this state are the property of the state and may only be taken at times and in a manner as provided in this part.

(2) Fish, reptiles, amphibians, mollusks, crustaceans, and any other aquaculture species propagated, reared, produced, or possessed pursuant to a registration or permit issued under the Michigan aquaculture development act are not the property of the state and may be taken, produced, purchased, acquired, lawfully exported or imported, or possessed only in compliance with that act.

(3) The department shall consider a registration under the Michigan aquaculture development act as equivalent to a game fish breeders license for purposes of obtaining a planting permit under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 200, Imd. Eff. May 17, 1996.

Popular name: Act 451

Popular name: NREPA

324.48702a Definitions; obstruction or interference in lawful taking of aquatic species; prohibited conduct.

Sec. 48702a. (1) As used in this section and section 48702b:

(a) "Aquatic species" means fish, reptiles, mollusks, crustacea, minnows, wigglers, and amphibians of the class amphibia.

(b) "Take" and "taking" mean to fish for by any lawful method, catch, kill, capture, trap, or shoot any species of fish, reptiles, amphibians, mollusks, wigglers, or crustacea, regulated by this part, or to attempt to engage in any such activity.

(c) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(2) A person shall not obstruct or interfere in the lawful taking of aquatic species by another person.

(3) A person violates this section when the person intentionally or knowingly does any of the following:

(a) Operates a vessel or a device designed to be used on the water which does not meet the definition of a vessel in a manner likely to significantly alter the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(b) Wades or swims in a manner or at a location likely to cause a significant alteration in the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(c) Tosses, drops, or throws any stone, rock, or other inert material in order to hinder or prevent the lawful taking of an aquatic species.

(d) Drives, herds, or disturbs any aquatic species in order to hinder or prevent the lawful taking of an aquatic species.

(e) Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking an aquatic species.

(f) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect aquatic species behavior in order to hinder or prevent the lawful taking of an aquatic species.

(g) Erects barriers to deny ingress or egress to areas where the lawful taking of aquatic species may occur. This subdivision does not apply to a person who erects barriers to prevent trespassing on his or her property.

(h) Interjects himself or herself into the area where nets, fishing lines, or traps may be placed by a person lawfully taking aquatic species.

(i) Affects the condition or placement of personal or public property intended for use in the lawful taking of an aquatic species in order to impair the usefulness of the property or prevent the use of the property.

(j) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.

(k) Engages in any other act or behavior for the purpose of violating this section.

History: Add. 1996, Act 315, Eff. July 1, 1996.

Compiler's note: Enacting Section 3 of Act 315 of 1996, which provided:

"Section 3. This amendatory act shall not take effect unless Senate Bill No. 964 of the 88th Legislature is enacted into law."

Popular name: Act 451

Popular name: NREPA

324.48702b Violation of MCL 324.48702a.

Sec. 48702b. (1) Upon petition of an aggrieved person or a person who reasonably may be aggrieved by a violation of section 48702a, a court of competent jurisdiction, upon a showing that a person was engaged in and threatens to continue to engage in illegal conduct under section 48702a, may enjoin that conduct.

(2) A person who violates section 48702a is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$500.00 or more than \$1,000.00, or both, and the costs of prosecution. A person who violates section 48702a a second or subsequent time is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not less than \$1,000.00 or more than \$2,500.00, or both, and the costs of prosecution. In addition to the penalties provided for in this subsection, any permit or license issued by the department authorizing the person to take aquatic species shall be revoked. A prosecution under this subsection does not preclude prosecution or other action under any other criminal or civil statute.

(3) Section 48702a does not apply to a peace officer while the peace officer performs his or her lawful duties.

History: Add. 1996, Act 318, Eff. July 1, 1996.

Popular name: Act 451

Popular name: NREPA

SUBPART II FISHING DEVICES

324.48703 Fishing devices; lines; hooks; tip-up or similar device; spear or bow and arrow; hand net; dip net; setover net; trammel net; hoop net.

Sec. 48703. (1) A person shall not take, catch, or kill or attempt to take, catch, or kill a fish in the waters of this state with a grab hook, snag hook, or gaff hook, by the use of a set or night line or a net or firearm or an explosive substance or combination of substances that have a tendency to kill or stupefy fish, or by any other means or device other than a single line or a single rod and line while held in the hand or under immediate control, and with a hook or hooks attached, baited with a natural or artificial bait while being used for still fishing, ice fishing, casting, or trolling for fish, which is a means of the fish taking the bait or hook in the mouth. A person shall not use more than 3 single lines or 3 single rods and lines, or a single line and a single rod and line, and shall not attach more than 6 hooks on all lines. The department shall have the authority to decrease the number of rods per angler. However, the department shall not reduce the number of rods per angler to less than 2. For the purposes of this part, a hook is a single, double, or treble pointed hook. A hook, single, double, or treble pointed, attached to a manufactured artificial bait shall be counted as 1 hook. The department may designate waters where a treble hook and an artificial bait or lure having more than 1 single

pointed hook shall not be used during the periods the department designates. In the Great Lakes or recognized smelt waters, any numbers of hooks, attached to a single line, may be used for the taking of smelt, alewife, or other bait fish.

(2) A person shall not set or use a tip-up or other similar device for the purpose of taking fish through the ice unless the name and address of the person owning the tip-up or other similar device is marked in legible English on the tip-up or other similar device or securely fastened to it by a plate or tag.

(3) The department may issue an order to regulate the taking of fish with a spear or bow and arrow in the waters of this state.

(4) A hand net may be used from March 1 to May 31 for taking smelt, suckers, mullet, carp, dogfish, and garpike. The department may designate the waters where the fish may be taken and the time within the dates when the fish may be taken.

(5) A dip net without sides or walls and not exceeding 9 feet square may be used in the nontrout rivers and streams and in other rivers and streams or portions of the rivers and streams designated by the department from April 1 to May 31 in the Lower Peninsula and during the month of May in the Upper Peninsula for the purpose of taking suckers, mullet, smelt, carp, dogfish, and garpike.

(6) A person desiring to fish with a dip net shall first obtain a permit from the department. A dip net shall not be erected or fished within 100 feet of a dam. The name and address of the person setting, using, or having control over the dip net equipment, including frame, boom, supporting members, and temporary buildings, shall be plainly marked in legible English on the dip net equipment or securely fastened to it by a plate or tag. Dip net equipment and a temporary building erected and used pursuant to this subsection that are located on public land or the land of another person shall be removed prior to June 10 of each year unless maintained with proper permission of the landowner. This subsection does not authorize the erection or fishing of a dip net on the land or premises of another person without proper permission from the landowner.

(7) A setover net not exceeding 5 feet in diameter may be used from March 15 to May 15 for the purpose of taking suckers from an inland lake designated by the department.

(8) A trammel net not exceeding 12 feet in length may be used from April 1 to May 31 for taking carp, suckers, redhorse, mullet, dogfish, and other nongame fish in the Tittabawassee river and its tributaries down from the dam at Sanford, down from the dam at St. Louis, and down from the dam at Mt. Pleasant, and in the Shiawassee river and its tributaries down from the dam at Chesaning in Saginaw county. A person shall not take more than 100 of these fish in 1 day.

(9) A hoop net may be used between the dates of December 15 and February 28 in the river or stream or portion of a river or stream designated by the department for the taking of burbot (lawyers).

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2008, Act 291, Imd. Eff. Oct. 6, 2008.

Popular name: Act 451

Popular name: NREPA

324.48704 Gill net; cisco.

Sec. 48704. A person holding a resident fishing license may take cisco with 1 gill net, not exceeding 165 feet in length and having meshes not less than 2 inches or more than 4 inches extension measure, between November 15 and December 10 of each year in those inland lakes and under rules promulgated by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48705 Reptiles, amphibians, mollusks, and crustaceans; manner and times of taking; fishing license for turtles or frogs; commercial reptile and amphibian license; fee.

Sec. 48705. (1) Reptiles, amphibians, mollusks, and crustaceans may only be taken in a manner and during those times prescribed by the department. Persons taking, trapping, catching, or fishing for turtles or frogs for their personal use shall have a valid fishing license issued pursuant part 435.

(2) A person shall not take, trap, catch, or fish for reptiles or amphibians for commercial purposes unless he or she purchases an annual commercial reptile and amphibian license for a fee of \$150.00.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48706 Seines or nets; prohibited use near dams; definition.

Sec. 48706. Except as otherwise provided by law, a person shall not fish with any kind of seines or nets within a radius of 100 feet of or from any dam, frighten or hinder fish from the free passage up or down a fish chute or ladder, or place any obstruction or device in or across any race, stream, or river in this state in a manner that obstructs the free passage of fish up and down the race, stream, or river. For the purpose of this part, a dam is an artificial barrier or obstruction placed in a river or stream in this state which changes the natural elevation of the water level more than 2 feet.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48707 Lamprey control weir; prohibited waters for fishing.

Sec. 48707. A person shall not fish within a distance of 100 feet upstream or downstream from a lamprey control weir installed by the department or the United States fish and wildlife service and designated by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48708 Smelt nets; length; mesh; license fee; marking.

Sec. 48708. A person may use a net not more than 50 feet in length and having meshes not less than 1-1/4 inches or more than 1-3/4 inches to take smelt in waters along the shores of the Great Lakes and connecting waters of the Great Lakes, as designated by the department. The annual license fee for each net described in this section is \$3.00. When a net described in this section is set, there shall be affixed to both ends of the net a buoy or staff marker that has affixed to it the name, address, and license number of the owner of the net.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48709 Dam or barrier; destruction or interference prohibited.

Sec. 48709. A person shall not destroy or attempt to destroy, or interfere with in any manner, any artificial dam or barrier placed in a trout stream under the direction of the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48710 Applicability of part to gaff, landing net, person propagating fish, or to fish caught by device; requirements as to landing net.

Sec. 48710. (1) This part does not prohibit the use of a gaff, except on or along trout streams, or a landing net to assist in landing fish already caught by a lawful device. This part does not apply to a person engaged in the business of propagating fish under part 459 or to fish caught by a device for which a lawful permit or license is obtained from the department under this part.

(2) A person shall not use or possess a landing net more than 5-1/2 feet in circumference or with a handle exceeding 14 inches in length on a trout stream during the months of April, May, and June.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48711 Possession of fishing devices; prohibition; confiscation; exceptions; evidence; certain controls not affected.

Sec. 48711. A person shall not have in his or her possession any net, set lines, jack or other artificial light of any kind, dynamite, giant powder, or other explosive substance or combination of substances, hook and line, or any other contrivance or device to be used for the purpose of taking fish in violation of this part or any other act or part. Any such property, contrivance, or device found in the possession of a person or found in a boat, boathouse, or any other place on any of the waters of this state or along the shores of the waters of this state shall be confiscated and disposed of in the manner provided by law. A person shall not have a gaff in his or her possession on or along any trout stream in this state or use, except from June 1 to Labor Day, on any trout stream a single hook of any kind that is more than 3/8 inches between the point of the hook and the shank. This section does not prohibit the use or possession of minnow seines, minnow traps, or dip nets as

provided in section 48730 or the use and possession of seines, nets, spears, or artificial lights for the use of which a lawful permit or license has been issued by the department. A person may have in his or her possession an artificial light of any kind for taking white bass. Commercial anglers who have licenses to take fish in the Great Lakes may have in their possession nets or hook lines for that purpose only. In prosecutions for the violations of this section, and in proceedings for the confiscation of the property described in this section, the possession of any such property, contrivance, or device or, when not found in possession of any person, the presence of any such property in a boat, boathouse, or any other place on the waters of this state or along the shores of the waters of this state is prima facie evidence that the property is owned, possessed, or used for the purpose of violating this part. The possession of any such property, contrivance, or device on the waters of this state that are closed to all fishing during the closed season on or along those waters is prima facie evidence that the property is owned, possessed, or used for the purpose of violating this part. This act or any other act does not apply to the department in its program in fisheries management or in the control of aquatic vegetation by individuals under permit issued by the department when, in the opinion of the department, that control is not inimical to the public interest.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48712 Fishing in propagating beds prohibited; exception.

Sec. 48712. A person shall not catch any fish or attempt to catch any fish in any manner in any lake, stream, or pond or portion of any lake, stream, or pond that is used by the state or federal government for the propagation of fish, except in the portion or portions of the lake, stream, or pond as may be designated by the department as open to fishing.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48713 Fishing to remove eggs prohibited.

Sec. 48713. A person shall not catch any game or nongame fish in any manner in any lake, stream, or pond or in the Great Lakes for the purpose of removing its eggs.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48714 Nonresident as commercial fishing guide; “commercial fishing guide” defined.

Sec. 48714. (1) A nonresident who resides in a state or country that does not allow residents of this state to act as commercial fishing guides within that state or country shall not act as a commercial fishing guide on the inland waters of this state.

(2) Notwithstanding subsection (1), a nonresident shall not act as a commercial fishing guide on the inland waters of Gogebic or Iron county.

(3) As used in this section, “commercial fishing guide” means a person who, for a fee or other consideration of value, regardless of whether the fee or consideration is paid directly or indirectly, is present and provides assistance to another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART III OPEN SEASONS

324.48715 Open seasons by classification of waters.

Sec. 48715. Except as otherwise provided by law, a person shall not take, catch, or kill or attempt to take, catch, or kill any species of fish in any of the following:

(a) A trout stream or any inland lake designated as a trout lake under this part except from the last Saturday in April through the second Sunday in September. However, the department may designate certain trout streams, or portions of trout streams in which nongame fish and game fish other than trout occur, as open to hook and line fishing at all seasons of the year for taking any species of fish on which the season is not closed.

(b) Lakes other than lakes designated as trout lakes shall be open to fishing throughout the year for taking any species of fish on which the season is not closed. The nontrout streams, the Great Lakes, and the connecting waters of the Great Lakes shall be open to fishing throughout the year for taking any species of fish on which the season is not closed.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48716 Open seasons by species of fish.

Sec. 48716. A person shall not take, catch, or kill or attempt to take, catch, or kill any fish of the species named in this section in any of the waters over which this state has jurisdiction except during the following open seasons:

(a) Largemouth and smallmouth black bass from the Saturday immediately preceding Memorial Day to December 31, except in Lake St. Clair and the St. Clair and Detroit Rivers, in which waters the open season is from the third Saturday in June to December 31.

(b) Bluegills and sunfish, no closed season.

(c) Northern pike, pike-perch, and muskellunge from the last Saturday in April to March 15 in the inland waters. These fish may be taken at any time from lake Macatawa, Ottawa county; Muskegon lake and White lake, Muskegon county; Spring lake, Muskegon and Ottawa counties; Pentwater lake, Oceana county; Pere Marquette lake, Mason county; Manistee lake, Bar lake at Arcadia, and Portage lake, Manistee county; Betsie lake, Benzie county; lake Charlevoix and Round lake, Charlevoix county; the Muskegon river downstream from Rogers dam, Mecosta county; and Lake Erie and the connecting waters of the Great Lakes. In Lakes Superior, Michigan, and Huron, except Saginaw bay, these fish may be taken from May 21 to March 31. In Saginaw bay, these fish may be taken from April 11 to March 4. In that part of upper Lake Huron known as Whitney bay, Pike bay, Island harbor, Les Cheneaux channels, Potagannissing bay, and certain waters on the south side of Drummond island, all as described in sections 47345, 47346, 47348, and 47349, these fish may be taken from May 1 to March 31.

(d) Brook trout, brown trout, rainbow trout, lake trout, splake, and landlocked salmon from the last Saturday in April through the second Sunday in September in the inland waters. The department shall designate the waters in which, in addition to the season provided for in this subdivision, any species of trout and in addition other fish for which the season is open may be taken with hook and line only during additional open seasons that the department prescribes.

(e) All species of trout except lake trout from the first Saturday in April to November 30 in the Great Lakes and connecting waters not otherwise closed to their taking. There is no closed season on lake trout in these waters.

(f) Perch, saugers, white bass, rock bass, warmouth bass, crappies, catfish, bullheads, ciscoes, herring, whitefish, pilot fish or menominee whitefish, smelt, suckers, mullet, redhorse carp, buffalo, shad, garfish, dogfish, lawyers, and sheepshead may be taken at all seasons of the year in waters that are open to fishing.

(g) Sturgeon during January and February from inland waters; at any time from waters of the Great Lakes and connecting waters not otherwise closed to their taking.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48717 Open season for trout.

Sec. 48717. Notwithstanding any other provision in this part or any order of the department, the following provisions are applicable during the open season for trout in that portion of Duck Creek within Gogebic County, Watersmeet Township, beginning at the old railroad bridge SE-SE section 16, T44N-R39W downstream to the Middle Branch of the Ontonagon River at NW-NW Section 27, T45N-R39W:

(a) Only artificial lures may be used to take trout.

(b) Trout must be at least 10 inches in length.

(c) Not more than 5 trout may be taken per day.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48718 Establishment of closed season; spawning beds; notices; use of boat or floating device over spawning bed; opening waters out of season.

Sec. 48718. The department may establish a closed season on any spawning bed when it appears that spawning or guarding does not coincide with the time of the closed season provided by law. Notices defining the closed areas must be posted not less than 5 days before taking effect. For the purpose of this part, a spawning bed means any section of a lake, river, pond, or other body of water where fish are known to congregate for the purpose of spawning. A person shall not operate any boat, floating device, or other contrivance propelled by or using as motive power steam, gas, naphtha, oil, gasoline, or electricity upon any spawning bed posted as provided in this part. The department may open to fishing at any time, for any species, in any manner, any waters in which an excessive mortality of fish occurs or is threatened.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48719 Legal sizes of fish; mutilation.

Sec. 48719. (1) A person shall not take or possess any of the following:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout, and splake of a length less than 7 inches when taken from the inland waters or 10 inches when taken from the Great Lakes and connecting waters.

(b) Black bass, largemouth or smallmouth, and landlocked salmon of a length less than 10 inches.

(c) Great northern pike, grass pike, or pickerel of a length less than 20 inches, except that in Cisco lake, Thousand Island lake, Big African lake, Lindsley lake, and Poor lake in the Cisco chain of lakes and the West Branch of the Presque Isle river, all in the Upper Peninsula, great northern pike shall not be of a length less than 14 inches, and the department may lower size limits in designated waters.

(d) Pike-perch or walleyed pike of a length less than 13 inches.

(e) Muskellunge of a length less than 30 inches.

(f) Sturgeon of a length less than 42 inches.

(2) A person shall not possess on any waters over which this state has jurisdiction any fish that is so mutilated that the identification or measurement of that fish is impossible.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48720 Open season for fishing in Crystal lake, Benzie county.

Sec. 48720. The department may designate Crystal lake in Benzie county as open to fishing whenever it appears that this action is not inimical to the public interest.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48721 Maximum number of fish to be caught, killed, or possessed in single day; possession of fish illegally taken prohibited.

Sec. 48721. (1) Except as otherwise provided in an order authorized under part 411, a person shall not in a single day catch, kill, or have in possession at any 1 time more than the number of fish indicated as follows:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout, and splake, in any combination of species, 10 when taken from rivers and streams or 5 when taken from inland lakes or Great Lakes, but not more than 10 pounds and 1 fish.

(b) Largemouth and smallmouth black bass, 5.

(c) Bluegills, sunfish, warmouth bass, rock bass, and crappies, 25 aggregate of any 1 species or in any combination of species.

(d) Pike-perch, 5. Any person may take and possess 10 pike-perch when legally taken in the connecting waters or the waters of the Great Lakes.

(e) Saugers, 20, when taken from the waters commonly known as the Portage canal and including Portage lake and Torch lake, all in Houghton county. Saugers when so taken shall not be bought or sold.

(f) Northern pike, 5.

(g) Landlocked salmon, 5.

(h) White bass, 10; 25 when taken from the Great Lakes or connecting waters.

(i) Whitefish, 12.

(j) Sturgeon, 2 per season. A person shall not possess sturgeon on or along the shores of an inland water except during the months of January and February.

(k) Perch, 50 in the Upper Peninsula and all waters of the Great Lakes that are within the jurisdiction of

this state and are 10 or fewer miles from a border of the Upper Peninsula; in all other waters of the state, 100.

(2) A person shall not in a single day catch, kill, or possess more than a combined total of 5 largemouth or smallmouth bass, pike-perch, and northern pike, except that a person may take and possess a combined total of 10 of those fish when taken in the connecting waters or the waters of the Great Lakes.

(3) A person shall not possess a fish illegally taken.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48722 Game fish; carried as open hand baggage; transportation.

Sec. 48722. A resident or nonresident who holds an unexpired fishing license issued in his or her name may carry as open hand baggage not more than 1 day's legal catch of fish. However, any person holding an unexpired fishing license may obtain only 1 permit from the department authorizing that person to ship 1 day's legal catch of any species of game fish or combination of species. The catch of 2 or more licensed anglers may be combined in a single package. However, the permit of each angler whose catch is combined in the package shall be attached to the package.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48723 Purchase, sale, transportation or possession of certain fish prohibited; exceptions.

Sec. 48723. A person shall not purchase, buy, or sell, attempt to purchase, buy, or sell, transport to any point outside of this state at any time, or possess during the periods in which the taking or catching of the fish is prohibited, any species of fish taken on a sport fishing license or any species of fish taken without a commercial fishing license. Any lawfully taken fish may be possessed for 60 days after the close of the respective open seasons. A person possessing a nonresident fishing license may take from this state a day's legal catch of fish in accordance with his or her license. This section does not apply to or conflict with the possession, sale, or transportation of fish taken legally under the commercial fishing laws and regulations of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48724 "Fish cleaning station" defined; license to purchase, sell, or exchange anything of value for raw or unprocessed salmon eggs; prohibited conduct; compliance with requirements; selling or buying chemically treated salmon eggs; violation; order; injunctive relief.

Sec. 48724. (1) As used in this section, "fish cleaning station" means an operation or location used to clean salmon for sport fishers.

(2) Except as provided in subsection (3)(c), a person shall not purchase, sell, or otherwise exchange anything of value for raw or unprocessed salmon eggs unless the person is licensed pursuant to section 47333 and the sale, purchase, or exchange of the raw or unprocessed salmon eggs is made with another person who is also licensed pursuant to section 47333.

(3) A person who operates or is the agent of an operator of a fish cleaning station shall not do any of the following:

(a) Accept raw or unprocessed salmon eggs except from whole salmon, known as salmon in the round, or eggs salvaged from salmon cleaned at the station.

(b) Operate a fish cleaning station that sells raw or unprocessed salmon eggs without a current and valid permit issued by the department.

(c) Buy, barter, or otherwise exchange anything of value for raw or unprocessed salmon eggs. This subdivision does not prohibit the operator of a fish cleaning station or his or her agents from exchanging the service of cleaning salmon in exchange for the eggs in the salmon's carcasses or from charging a fee for cleaning salmon.

(d) Buy or sell salmon carcasses taken by a person licensed under part 435.

(4) A person issued a permit to operate a fish cleaning station shall comply with all of the following requirements:

(a) Raw or unprocessed salmon eggs may only be collected and stored at the location of the fish cleaning station specified in the permit.

(b) The fish cleaning station shall be licensed in accordance with the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws, and operated in compliance with the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws, only when the salmon eggs or salmon, or both, are sold or given to another person for human consumption.

(c) Disposal of offal and unwanted salmon carcasses shall be in a manner approved by the local health department.

(d) A permit holder shall accept from sport fishers all salmon carcasses that are brought to the station and shall hold and dispose of them and their offal only in a manner approved by the local health department.

(e) As a condition of his or her permit, a permit holder whose fish cleaning station is located on state owned land shall provide free access to the fish cleaning station facilities to anglers who wish to use the facilities to clean their own salmon catch.

(5) This section shall not be construed to prohibit the selling or buying of chemically treated salmon eggs in the form of spawn sacks or spawn bags.

(6) If the department finds that a person is in violation of this section or a permit issued under this section, the department may issue an order requiring the person to comply with the permit. In addition to the penalties provided for in this part, the department or its agent, the attorney general, or a person may seek injunctive relief for a violation of this section or a permit issued under this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48725 Grayling; taking or possession prohibited.

Sec. 48725. A person shall not at any time take, attempt to take, or possess any grayling taken from any of the waters over which this state has jurisdiction.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48726 Repealed. 2008, Act 291, Imd. Eff. Oct. 6, 2008.

Compiler's note: The repealed section pertained to adoption of orders relating to harvesting of salmon and trout.

324.48727 Snagging of fish illegal on and after October 26, 1993; management of fisheries on Pere Marquette river.

Sec. 48727. (1) On and after October 26, 1993, the snagging of fish is illegal in this state.

(2) The department shall manage fisheries on the Pere Marquette river at or above the site of the lamprey blocking weir.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART IV MINNOWS

324.48728 Definitions.

Sec. 48728. As used in this part:

(a) "Commercial purposes" means offering for sale, selling, giving, or furnishing to others.

(b) "Crayfish" means any arthropod of the decapoda family.

(c) "Minnows" means chubs, shiners, suckers, when of a size ordinarily used for bait in hook and line fishing, dace, stonerollers, muddlers, and mudminnows.

(d) "Wigglers" means Mayfly nymphs or any other aquatic insect nymphs or larvae.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48729 Prohibited conduct.

Sec. 48729. A person shall not do any of the following:

(a) Take or possess minnows, wigglers, or crayfish for commercial purposes from any of the waters over which this state has jurisdiction; import minnows, wigglers, or crayfish for commercial purposes from outside of this state; or transport minnows, wigglers, or crayfish without having first procured a license as provided in section 48732. A license, except a license to fish in the waters of this state as provided in part 435, is not required of persons taking minnows, wigglers, or crayfish for their individual use for bait. A person shall not set or use minnow traps for the taking of minnows, wigglers, or crayfish for any purpose unless the name and address of the user is on the trap.

(b) Transport outside of this state any minnows, wigglers, or crayfish, dead or alive, taken either in or outside of this state. The department, upon receipt of a payment of \$25.00, may issue a permit, revocable by the department, under such regulations as the department prescribes, to any resident licensed as provided for in section 48732, enabling that person to transport outside of this state minnows, wigglers, or crayfish preserved in liquid and bottled for fish bait. The department may limit to 15 or fewer days of any 1 year the taking of minnows by a licensed person for preservation for fish bait purposes. A person holding a permit as provided in this subdivision shall allow the department to inspect his or her books and records at any reasonable time. A permit issued pursuant to this subdivision may be revoked by the department upon good cause and shall expire on December 31 following the date of issuance unless the license is revoked prior to that date.

(c) Use or attempt to use live goldfish or carp for bait in fishing.

(d) Offer for sale or use lamprey for bait in fishing.

(e) Take, possess, or transport minnows, wigglers, or crayfish for commercial purposes from any of the waters over which this state has jurisdiction unless the taker is a resident of this state and holds a permit or license as required by law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48730 Powers of department.

Sec. 48730. (1) The department may designate the lakes and streams and parts of lakes and streams from which minnows, wigglers, and crayfish may be taken for commercial purposes and make rules, regulations, and restrictions for taking, possessing, and transporting minnows, wigglers, and crayfish.

(2) A person shall not take or attempt to take minnows, wigglers, or crayfish for commercial purposes from any waters of the state not designated by the department or violate any of the rules, regulations, or restrictions established pursuant to this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48731 Minnow seines; glass or wire traps; hand nets; hook and line; dip nets.

Sec. 48731. (1) Except as otherwise provided in this subsection, minnow seines of not more than 125 feet in length and 16 feet in width may be used in the Great Lakes and their connecting waterways and in the inland lakes, streams, and rivers of this state. Minnows may only be taken from trout streams during open season with glass or wire traps. Minnow seines shall not be used in trout streams at any time.

(2) Hand nets not exceeding 8 feet square without sides or walls, minnow traps not exceeding 2 feet in length, minnow seines not exceeding 12 feet in length and 4 feet in width, and hook and line may be used for taking minnows for personal use in any of the waters designated by the department, as provided in section 48730. However, a person shall not take minnows in trout streams with hand or dip nets.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART V LICENSES AND PERMITS

324.48732 "Place of business" defined; limited retail minnow dealer's license; wholesale minnow dealer's license; minnow catcher's license; fees; prohibited imports; separate licenses; size of crew; identification cards; license application forms; display of placard and license number; display of license or identification card on demand; inspection of

records and equipment; revocation or expiration of license.

Sec. 48732. (1) As used in this section, "place of business" means a single location designated in a license application.

(2) The department, upon receipt of a fee of \$25.00, may issue a limited retail minnow dealer's license to entitle the licensee to operate 1 place of business and 1 motor vehicle and to buy, transport, and retail minnows, wigglers, and crayfish.

(3) The department, upon receipt of a fee of \$100.00, may issue to a resident a wholesale minnow dealer's license to entitle the licensee to operate 1 place of business, to transport, using up to 3 motor vehicles, and to sell at wholesale to licensed minnow dealers minnows, wigglers, and crayfish.

(4) The department, upon receipt of a fee of \$50.00, may issue to the holder of a limited retail minnow dealer's license or a wholesale minnow dealer's license a minnow catcher's license to permit the taking, collecting, transporting, and possessing of live or fresh minnows, wigglers, or crayfish to be used for commercial purposes in accordance with this part. Each minnow catcher's license entitles the licensee to operate up to 3 crews consisting of not more than 4 persons and 4 motor vehicles for the purpose of taking, collecting, and transporting live or fresh minnows, wigglers, or crayfish.

(5) The department, upon receipt of a fee of \$500.00, may issue to a nonresident of the state a wholesale minnow dealer's license to entitle the licensee to operate 1 place of business, to transport, using up to 3 motor vehicles, and to sell at wholesale to licensed minnow dealers minnows, wigglers, and crayfish.

(6) Crayfish shall not be imported for commercial purposes from outside of this state without a special permit from the department. Minnows and wigglers not native to the waters of this state shall not be imported from outside of this state.

(7) The holder of a license issued pursuant to this section who possesses minnows, wigglers, or crayfish for commercial purposes at more than 1 place of business shall obtain a separate license for each place of business. The holder of a license issued pursuant to this section may use more than 3 crews not to exceed 4 crew members in taking, collecting, and transporting minnows, wigglers, and crayfish, or use additional motor vehicles in collecting and transporting minnows, wigglers, or crayfish, for a fee of \$15.00 for each additional crew of not more than 4 persons and for each additional motor vehicle.

(8) With each minnow catcher's license issued under this section, the department shall issue 12 identification cards bearing the number of the license and the year for which the license is issued. Each member of a crew engaged in taking, collecting, and transporting minnows, wigglers, or crayfish for commercial purposes shall carry an identification card at all times while taking, collecting, or transporting minnows, wigglers, or crayfish. The department shall supply license application forms which shall state the name and address of the licensee and the lakes and streams and parts of lakes and streams from which minnows, wigglers, or crayfish may be taken. A person to whom a limited retail or wholesale minnow dealer's license has been issued under this part shall prominently display at the place of business designated in that license a placard to be furnished by the department which will contain the words "Licensed Minnow Dealer" and the license number and the year for which the license was issued. Any person to whom such a license has been issued under this section shall permanently display the license number in 4-inch block letters on each side of the tanks on the motor vehicle or on the front doors of the motor vehicle and on the back of the motor vehicle.

(9) Upon demand of a conservation officer or any other peace officer, a person found taking, collecting, possessing, or transporting any live or fresh minnows, wigglers, or crayfish for commercial purposes shall display a license or identification card provided for in this section. The records, seines, nets, minnow traps, transporting equipment, and other equipment of every kind utilized in the handling of minnows, wigglers, and crayfish and the tanks and ponds where minnows, wigglers, and crayfish are held shall be open to inspection at any reasonable time by a conservation officer or any other peace officer.

(10) All licenses issued pursuant to this section are revocable upon just cause and, if not revoked, expire on December 31 following the date of issuance. Any person whose license has been revoked shall not be issued a commercial minnow, wiggler, and crayfish license within a period of 1 year from the date of revocation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48733 Cisco, whitefish, suckers and carp season; designation of waters for use of spear and artificial light; purchase or sale; Higgins lake; season.

Sec. 48733. The department may designate the lakes or streams in this state from which cisco, whitefish, suckers, and carp may be taken by means of a spear and artificial light from October 15 to December 31 in the

waters lying north of north line of town 16 north, and west of Saginaw bay and from November 1 to December 31 in the waters south of north line of town 16 north, and east of Saginaw bay including the thumb. However, whitefish or cisco taken as described in this section shall not be bought or sold, and in Higgins lake, Roscommon county, those fish shall not be taken by means of a spear and artificial light before November 1.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48734 Permit to remove noxious fish from waters; issuance.

Sec. 48734. The department may issue permits for the removal of dogfish, carp, garfish, sheepshead, and other noxious fish from all the waters over which this state has jurisdiction with seines, nets, spears, or in any other manner, and sell or authorize the sale of same for the purpose of paying the expense of the removal on terms that are in the best advantage of the state. However, the department shall be present at the time and place of the taking and removal of the fish and a representative of the department shall personally superintend the taking and removal. The department shall incorporate regulations and restrictions in the permits as the department considers advisable, and any person taking fish under such a permit shall conform to all the regulations and restrictions specified in the permit. A nonresident who operates under a permit issued under this section shall, in addition to the percentage paid to the state, be required to pay the nonresident license fee as provided for nonresidents under the commercial fishing laws of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48735 Permit to take fish for fish culture or scientific investigation; exception; permit to possess live game fish in ponds, pools, and aquariums; taking fish to obtain spawn or for protection from ecological damage or imbalance; taking fish not required to maintain fishery resources; supervision; sale or transfer of fish; importing or bringing fish or eggs from outside state; permit to plant spawn, fry, or fish in public waters; exhibiting permits; report.

Sec. 48735. (1) Subject to subsection (2), a person shall not take from any of the inland waters of this state any fish in any manner for the purpose of fish culture or scientific investigation without first obtaining a permit from the department, except that a person who is operating a private fish pond may take fish from his or her own pond for the purpose of propagation, scientific investigation, or sale under part 459.

(2) The department may issue permits to possess live game fish in public or private ponds, pools, or aquariums under rules and regulations as the department prescribes. This subsection is subject to subsection (5).

(3) The department may cause to be taken from the inland waters of this state any species of fish for the purpose of obtaining spawn for fish culture or scientific investigation or for the protection of the inland waters from ecological damage or imbalance. In addition, the department may cause to be taken from the inland waters of this state species of fish that are not required to maintain the fishery resources of the inland waters. All fish taken under this subsection shall be taken under the supervision of a deputy of the department appointed for that purpose and in accordance with the regulations of the department of agriculture, and the fish may be sold or transferred by the department.

(4) A person shall not import or bring any live game fish, including viable eggs of any game fish, from outside of this state except under a permit from the department or under part 459 and the rules promulgated in accordance with that part. A person shall not plant any spawn, fry, or fish of any kind in any of the public waters of this state or any other waters under the jurisdiction of this state without first obtaining a permit from the department that states the species, number, and approximate size or age of the spawn, fry, or fish to be planted and the name and location of the waters where the spawn, fry, or fish shall be planted. A permit is not required to plant spawn, fry, or fish furnished by the federal or state government. This subsection is subject to subsection (5).

(5) A permit under subsection (2) or (4) does not include a genetically engineered variant of a fish species identified in the permit unless the genetically engineered variant is specifically identified in the permit. A permit under subsection (2) or (4) may be limited to a genetically engineered fish.

(6) A permit under this section shall be exhibited upon the request of any law enforcement officer.

(7) The department shall annually report to the legislature all fish sold or transferred pursuant to this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

324.48736 Removal of caddis fly larvae or other insect larvae from trout streams; prohibition; exception.

Sec. 48736. Except as provided in this section, a person shall not take or remove or attempt to take or remove any caddis fly larvae or other insect larvae or insects of any kind from any trout stream of this state. The department may designate trout streams or portions of trout streams from which caddis fly larvae or other insect larvae or insects may be taken for commercial purposes by persons licensed in accordance with section 48732. This section does not prohibit the taking of any caddis fly larvae or other insect larvae or insects from any trout stream of the state for personal use in fishing the stream from which taken.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48737 Sale of licenses and stamps; disposition of proceeds.

Sec. 48737. All money collected from the sale of licenses and stamps as provided in this part shall be paid over to the state treasurer by the department and held to the credit of the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010, and shall be used for the purposes necessary to the protection, propagation, and distribution of fish and game and as otherwise provided by law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.48738 Violations as misdemeanors; violation as felony; penalties.

Sec. 48738. (1) A person who violates this part or rules or orders issued to implement this part, if a penalty is not otherwise provided for that violation in this section, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(2) A person convicted of using dynamite, nitroglycerin, lime, electricity, any other explosive substance, or poison for the purpose of taking or killing fish, convicted of using nets not authorized by law for taking game fish, or convicted of buying or selling game fish or any parts of game fish is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both.

(3) A person who takes or possesses sturgeon in violation of this part or rules or orders issued to implement this part is guilty of a misdemeanor and shall be punished by imprisonment for not less than 30 days or more than 180 days and a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(4) A person who knowingly violates section 48735(2) or (4) or a permit issued under section 48735(2) or (4) with respect to a genetically engineered variant of a fish species is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$250,000.00, or both. In addition, the person is liable for any damages to the natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(5) If a person is convicted of a violation of this part or rules or orders issued to implement this part and it is alleged in the complaint and proved or admitted at trial or ascertained by the court at the time of sentencing that the person has been previously convicted 3 or more times of a violation of this part within the 5 years immediately preceding the last violation of this part, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both, and the costs of prosecution. This subsection does not apply to the following violations:

(a) Failing to possess or display a valid fishing license or trout and salmon license issued pursuant to part 435.

(b) Taking or possessing an overlimit of bluegill, sunfish, crappie, perch, or nongame fish.

(c) Taking or possessing not more than 5 undersized fish.

(d) Fishing with too many lines.

(e) Failing to attach the person's name and address to tip-ups or minnow traps.

(f) Fishing with lines not under immediate control.

(6) In addition to the penalties provided in this section, a fishing license issued to a person sentenced pursuant to subsection (2), (3), (4), or (5) shall be revoked, and the person shall not be issued a license during the remainder of the year in which convicted or during the next 3 succeeding license years.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

324.48739 Violation of part as misdemeanor; possession or sale of multipointed hook with weight permanently attached as misdemeanor; penalties.

Sec. 48739. (1) A person who snags fish in violation of this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$250.00 or more than \$500.00, or both, and costs of prosecution.

(2) A person who is convicted of a second violation of snagging fish in violation of this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$500.00 or more than \$1,000.00, or both, and costs of prosecution. In addition, the court shall suspend a sports fishing license issued to a person sentenced under this subsection for not less than 2 years and order that the person shall not secure a fishing license during that 2-year period.

(3) A person who is convicted of a third or subsequent violation of snagging fish in violation of this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$1,000.00 or more than \$2,000.00, or both, and costs of prosecution. In addition, the court shall suspend a sports fishing license issued to a person sentenced under this subsection for not less than 3 years and order that the person shall not secure a fishing license during that 3-year period.

(4) A person who possesses or sells in this state any multipointed hook with a weight permanently attached is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$100.00 or more than \$300.00, or both, and costs of prosecution.

(5) A person who is convicted of a second violation of subsection (4) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$300.00 or more than \$500.00, or both, and costs of prosecution.

(6) A person who is convicted of a third or subsequent violation of subsection (4) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$500.00 or more than \$1,000.00, or both, and costs of prosecution.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.48740 Additional penalties; forfeitures; probation; default; disposition of forfeitures.

Sec. 48740. (1) In addition to the penalties provided in this part, a person convicted of taking game fish during a closed season; taking or possessing game fish in excess of lawful limits; taking game fish or nongame fish by use of an unlawful device; or buying or selling game fish, nongame fish, or any parts of game or nongame fish taken by use of an unlawful device shall forfeit to the state for the fish unlawfully taken or possessed as follows:

(a) For each game fish other than sturgeon, of an individual weight of 1 pound or more, \$10.00 for each pound or fraction of a pound of fish illegally taken or possessed.

(b) For each game fish other than sturgeon, of an individual weight of less than 1 pound, \$10.00 for each fish illegally taken or possessed.

(c) For sturgeon, \$1,500.00 for each fish illegally taken or possessed.

(d) For each nongame fish, \$5.00 for each pound or fraction of a pound of fish illegally taken or possessed.

(2) In every conviction for a violation described in subsection (1), the court before which the conviction is obtained shall order the defendant to forfeit to the state the sums provided in subsection (1). If 2 or more defendants are convicted of the illegal taking or possession of the fish, the forfeiture shall be declared against them jointly and severally.

(3) If a defendant fails to pay the sums forfeited for a violation of subsection (1), upon conviction, the court shall either impose a sentence of probation, and as a condition of sentence require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the forfeited sums in installments at the times and in the amounts as the court determines the defendant is able to pay.

(4) A default in the payment of forfeiture or an installment of the forfeiture may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(5) All courts collecting forfeitures as provided in this section shall promptly remit the forfeiture to the county treasurer, who shall transmit it to the state treasurer to be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

PART 489 WHAISKA BAY

324.48901 Whaiska Bay; fishing devices prohibited.

Sec. 48901. A person shall not place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook lines, except minnow seines, as provided in section 47309, in the connecting waters between Lake Superior and Lake Huron, said waters known as the Whaiska Bay, and also including all waters lying southerly to a line drawn from the most southeasterly point of lot 1, section 32, township 47 north, range 2 west, state of Michigan, and extending easterly to the most westerly point of Round Island.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 491 RECIPROCAL AGREEMENTS WITH ADJOINING STATES

324.49101 Reciprocal agreements with adjoining states to cover taking of fish.

Sec. 49101. In order to provide uniform fishing regulations in any river or any of the Great Lakes forming a common boundary with an adjoining state and any inland lake or lakes bisected by a common boundary with an adjoining state, the department may enter into a reciprocal agreement with the authorized representatives of any adjoining state to establish the minimum size of fish that may be taken, the number that may be taken in any 1 day, the seasons when fish may be taken, and the methods by which fish may be taken from waters described in this section. Any such agreement shall clearly set forth the waters to be included and the period during which the agreement shall be in effect.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.49102 Fishing; reciprocal agreements; publication.

Sec. 49102. Any order issued under this part supersedes all other laws and regulations governing fishing in the waters that in any way conflict. The regulations contained in any such order shall be included in the annual digest of fishing laws, rules, and regulations published and distributed annually by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.49103 Violation of regulations as misdemeanor; penalty.

Sec. 49103. A person who violates any regulation made under a reciprocal agreement entered into under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00 and costs of prosecution, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA